The Budget Control Act of 2011

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Summary

The Budget Control Act (BCA) is the result of negotiations between the President and Congress held in response to the federal government having nearly reached its borrowing capacity.

The BCA authorized increases in the debt limit of at least $2.1 trillion dollars (and up to $2.4 trillion under certain conditions), subject to a disapproval process that would likely require securing the support of two-thirds of each chamber to prevent a debt limit increase. It established caps on the amount of money that could be spent through the annual appropriations process for the next 10 years, which the Congressional Budget Office (CBO) estimates will reduce federal spending by $917 billion. The BCA also created a Joint Select Committee on Deficit Reduction that is instructed to develop a bill to reduce the federal deficit by at least another $1.5 trillion over the 10 year period ending in FY2021.

The legislation resulting from the joint committee recommendations can be considered under special procedures that prevent amendment and limit debate in both chambers. These procedures could have a significant impact in the Senate because they allow the bill to advance with simple majority support; under regular Senate procedures it can be necessary to obtain agreement among at least three-fifths of the Senate (normally 60 Senators) to advance consideration of legislation.

If a joint committee proposal cutting the deficit by at least $1.2 trillion is not enacted by January 15, 2012, then the BCA established an automatic spending reduction process that includes sequestration (the cancellation of budgetary resources). The process presumably is intended to encourage agreement on deficit reduction, either by enacting the joint committee legislation by early 2012, or possibly by enacting other legislation (presumably through existing congressional procedures) by the beginning of 2013, when the automatic process would make reductions. If the enacted bill cuts the deficit by more than $1.2 trillion, an additional increase in the debt limit becomes available in the amount of the excess, up to $0.3 trillion.

The Budget Control Act has two additional elements. First, it directs that the House and Senate must each vote on a proposal to amend the Constitution to require that the budget of the federal government be balanced. The BCA does not alter the procedures for taking up such a measure in the Senate, and therefore the Senate might not be able to vote on passage of a constitutional amendment unless the support of 60 Senators can be secured to begin consideration. The only procedural consequence of not voting specified in the BCA is that, if Congress does not *approve* a constitutional amendment, the second of two conditions under which the act would permit an additional increase of $0.3 trillion in the debt ceiling, will not be available.

Second, the BCA also makes changes to the William D. Ford Federal Direct Loan (DL) program and the Federal Pell Grant program, two federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329). Effective July 1, 2012, the BCA eliminates the availability of Subsidized Stafford Loans to graduate and professional students and eliminates all but one type of repayment incentives on future DL program loans. CBO estimates these changes would reduce direct spending by $21.6 billion over the FY2012-FY2021 period. Approximately $17 billion of the $21.6 billion in estimated savings from the changes in the DL program would be directed to the Pell Grant program for future general use in FY2012 and FY2013.

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Introduction

The President signed the Budget Control Act of 2011 (BCA; P.L. 112-25) on August 2, 2011. The new law contains multiple interrelated components, several of which establish procedures that will affect the consideration of subsequent legislation.

This report begins with a brief overview of the essential features of the Budget Control Act, taking a broad view of the connections between its different components and introducing readers to some fundamental concepts and terminology. The subsequent sections of this report provide more detailed information on each component of the BCA, with the goal of providing information to assist Members and staff as they apply these new procedures. (The appendices contain tools for those quickly seeking specific information: a list of short answers to "frequently asked questions" and tables identifying the various dates for action in relation to the bill to be proposed by the Joint Select Committee on Deficit Reduction and the resolutions disapproving the debt limit increase.)

The explanations of the procedures established in the BCA are based on a reading of the new law and an understanding of how similar procedures operated in the past. Some elements of the Budget Control Act of 2011, like all laws, will be subject to interpretation. Ultimately it is the House and Senate that will decide on the specific operation of the legislative procedures. For advice on the implementation of these procedures, congressional Members and staff will be best advised to consult with the Parliamentarian of their chamber. If an automatic spending reduction process is triggered, its actual execution will depend in large part on the interpretations and actions of the Office of Management and Budget (OMB), which might also need to be consulted regarding specific elements of that process.

Brief Overview of Essential Features

Debt Ceiling Increase and Disapproval Process

The Budget Control Act is the result of negotiations between the President and Congress held in response to the federal government having nearly reached its borrowing capacity.[1]

The BCA authorized debt limit increases up to at least $2.1 trillion dollars (and up to $2.4 trillion under certain conditions) in three installments. The first installment of $400 billion already occurred when the President submitted a certification, pursuant to the act, that the debt was within $100 billion of its limit.[2] Congress can prevent each of the next two installments if it passes a joint resolution disapproving the increase to the debt limit and overrides an expected presidential veto, although this full sequence of actions is widely considered to be unlikely.

[1] For more information, see CRS Report RL31967, *The Debt Limit: History and Recent Increases*, by D. Andrew Austin and Mindy R. Levit; and CRS Report R41633, *Reaching the Debt Limit: Background and Potential Effects on Government Operations*, coordinated by Mindy R. Levit.

[2] President Obama submitted such certification on August 2, 2011. It is available at http://www.whitehouse.gov/the-press-office/2011/08/02/message-president-us-congress.

The initial passage of a resolution disapproving a debt limit increase requires majority support in each chamber; BCA procedures prevent a Senate filibuster that otherwise could delay or prevent its coming to a vote. Presumably, however, the President will veto the disapproval resolution because the Treasury will have advised him that further borrowing is required to meet existing commitments. To override a Presidential veto requires the support of two-thirds of both chambers. Ultimately, therefore, the support of two-thirds of each chamber might be necessary to prevent a debt limit increase.

The House and Senate might consider a resolution disapproving the next increase of $500 billion to the debt limit sometime in September, which is when the deadline set by the BCA for enacting such a resolution occurs. The debt is next predicted to be within $100 billion of its limit in early 2012, when the President would submit another certification and Congress might consider another disapproval resolution.

Statutory Discretionary Spending Limits

Reaching agreement on the debt ceiling increase contained in the BCA depended in part on enacting procedures designed to reduce future federal spending. The BCA therefore also established caps on the amount of money that could be spent through the annual appropriations process for the next 10 years, which the Congressional Budget Office estimates will reduce federal spending by $917 billion.[3] The caps established by the BCA may also be adjusted for certain purposes, including, for example, for the costs of the "Global War on Terrorism."[4]

The adjustable caps are not placed on specific accounts or even on each of the appropriations bills; instead they are broad caps on the total amount of discretionary spending. For the first two fiscal years, the caps are on two categories of spending: security and nonsecurity. For the other years, one limit on all discretionary spending is created. Decisions about how these caps will affect specific agencies or programs will be made by Congress and the President through the regular appropriations process.

Discretionary spending limits are not unique; in current practice, the appropriators generally operate under caps set by Congress in a budget resolution or in another form. But those caps are enforced in the House and Senate, and the House and Senate can each waive them unilaterally. The caps established by the BCA, in contrast, cannot be waived by a single chamber. If the caps are exceeded, the BCA provides for a sequestration process: an automatic, largely across-the-board cancellation of budgetary resources.

Joint Select Committee on Deficit Reduction

Another part of the BCA agreement to increase the debt ceiling was the creation of a Joint Select Committee on Deficit Reduction, instructed to develop legislation to reduce the federal deficit by

[3] For information on the projected savings and impact on budget deficit projections resulting from these limits, see Congressional Budget Office, Letter to Honorable John A. Boehner, Speaker, U.S. House of Representatives, and Honorable Harry Reid, majority leader, United States Senate, cost estimate of the Budget Control Act of 2011, as posted on the website of the House Committee on Rules, August 1, 2011.

[4] Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), as amended by the BCA, provides for the caps to be adjusted for any discretionary appropriations designated as "for Overseas Contingency Operations/Global War on Terrorism."

at least another $1.5 trillion over the 10-year period ending in FY2021. The legislation resulting from the joint committee recommendations can be considered under special procedures that prevent amendment and limit debate in both chambers. These procedures could have a significant impact in the Senate because they allow a simple majority to approve a bill without indefinite delay. Under regular Senate procedures, the support of 60 Senators is often necessary to advance the consideration of legislation.

The joint committee, made up of an equal number of Democrats and Republicans from each chamber, has wide authority to develop a proposal to reduce the federal deficit. No specific policy restrictions or requirements are placed on the joint committee. Under the terms of the BCA it could recommend changes to revenue, spending, or both; it might even propose new budget enforcement mechanisms. For the proposal to be considered under the special, expedited procedures, however, it must be approved by the joint committee by November 23, 2011, and passed by both chambers by December 23, 2011. Given this timeline, perhaps the greatest indirect restriction on the content of the joint committee bill is that it must pass a House controlled by one party and a Senate controlled by another.

Budget Goal Enforcement: Spending Reduction Trigger

Furthermore, if Congress and the President do not enact a joint committee bill reducing the deficit by at least $1.2 trillion over the period of FY2012 to FY2021, there are potentially undesirable consequences. The failure to enact such a bill into law by January 15, 2012, will trigger an automatic spending reduction process. This process, sometimes referred to as "the trigger," includes sequestration, or the cancellation of budgetary resources. What it could mean is that if a qualifying joint committee bill is not enacted by January 15, 2012, then on January 2, 2013, the spending authority of many federal departments and agencies will be reduced.

The automatic process for deficit reduction involves several steps and calculations, and for details the reader is referred to the "Budget Goal Enforcement" section of the report below. Very generally, the spending reductions are to be made equally from defense spending and from all other spending (referred to as "nondefense spending"). The reductions required in each of these categories are then divided proportionally between discretionary spending and mandatory spending.

The spending reductions are achieved for direct spending through sequestration each year (FY2013 to FY2021). For discretionary spending, the reductions are achieved through sequestration the first year (FY2013). For the other fiscal years (FY2014-FY2021), the discretionary spending reductions are achieved through a downward adjustment of statutory limits on discretionary spending divided into two new categories that reflect defense and nondefense spending. Importantly, some programs, including both Social Security and Medicaid, are exempt from sequestration, and any sequestration of Medicare spending is capped at 2%.

The precise implications of the automatic spending reduction process cannot be assessed at this time. The amounts of spending reductions required each year cannot yet be known, as they depend in part on the extent, if any, by which the reductions in the joint committee bill fall short of the $1.2 trillion goal and in part on spending estimates to be calculated in the future by the Office of Management and Budget (OMB). Furthermore, beginning in FY2014, part of the spending reductions will be achieved through a downward adjustment of the statutory limits on discretionary spending, not by automatic across-the-board spending cuts. For discretionary

spending, it will therefore be Congress and the President who later determine the manner in which reductions are made to each account through the annual appropriations process each year.

This process presumably is intended to encourage agreement among policy makers on deficit reduction. During the negotiations over the BCA, it was widely reported that part of the reason to include both defense and domestic spending in the automatic spending reduction process was to encourage lawmakers to work to an agreement on deficit reduction based on an explicit determination of government budget priorities.[5] Presumably, such an agreement would be preferred by lawmakers to a largely across-the-board cut, proportional to each category, as described here. Thus, many lawmakers presumably have an incentive to prevent the automatic spending reduction process by enacting a joint committee bill reducing the deficit by $1.2 trillion or more over FY2012-FY2021. Congress and the President could also modify or terminate the process by passing a law altering the BCA, perhaps as part of the deal reached by the joint committee or perhaps in another law enacted sometime in 2012—because sequestration and other automatic spending reduction actions will not take place until 2013.

Vote on Constitutional Amendment to Balance the Budget

The BCA also states that the House and Senate must each vote on a balanced budget amendment to the Constitution between September 30 and December 31, 2011.[6] In the Senate, to get to a direct passage vote on a constitutional amendment, it might be necessary to secure support from 60 Senators to begin consideration of such a proposal. Many factors, including expectations created by approval of the BCA, could potentially influence whether or not the Senate votes on a balanced budget amendment. The only procedural consequence of not voting as specified in the BCA is that, if Congress does not *approve* a constitutional amendment, one of two avenues for increasing the debt ceiling by $1.5 trillion, instead of $1.2 trillion, will not be available.

If a joint resolution proposing a balanced budget amendment to the Constitution is approved by either chamber, then the BCA provides an expedited procedure for that joint resolution to be considered, without amendment, in the other chamber. The BCA does not affect procedures for bringing a measure up before the Senate, however. To summarize, if the House passes a balanced budget amendment by the required two-thirds vote, and if the Senate agrees to take up the House-passed proposal using its regular procedures, then the BCA procedures ensure the Senate will vote on passage of the House proposal.

Federal Student Aid Programs

The BCA also makes changes to the William D. Ford Federal Direct Loan (DL) program and the Federal Pell Grant program, two of the largest federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329).[7] The BCA amends the

[5] See, for example, Lori Montgomery, "Obama signs debt bill after Senate passage," *Washington Post*, August 3, 2011, p. A1; Joseph J. Schatz and Alan K. Ota, "Deal Reached to Boost Debt Limit, Cut Deficit," *CQ Today Online News*, July 31, 2011; and Fawn Johnson, Chris Strohm, and Coral Davenport, et al., "The Debt Deal: Issue by Issue," *National Journal Daily*, August 1, 2011.

[6] For information on proposals to amend the Constitution to require that the federal budget be balanced, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional Options* , by James V. Saturno and Megan Suzanne Lynch.

[7] For a description of the Federal Pell Grant program, see CRS Report R41437, *Federal Pell Grant Program of the* (continued...)

HEA by eliminating the availability of Subsidized Stafford Loans to graduate and professional students for periods of instruction beginning on or after July 1, 2012. The BCA also eliminates the authority of the Secretary of Education to offer one of the two types of repayment incentives on DL program loans first disbursed on or after July 1, 2012. CBO estimates these changes in the DL program would reduce direct spending by $9.6 billion over the FY2012-FY2016 period and $21.6 billion over the FY2012-FY2021 period.

Approximately $17 billion of the $21.6 billion in estimated savings from the changes in the DL program would be directed to the Pell Grant program for future general use. The BCA provides $10 billion in mandatory funding for FY2012, and $7 billion in mandatory funding for FY2013 for the program. These additional funds would reduce the amount of discretionary appropriations required in FY2012 and FY2013, although additional funding above the FY2011 discretionary level of approximately $23 billion may still be required in order to maintain the current eligibility parameters of the program in FY2012.

Expedited Procedures: General Observations

The BCA establishes legislative procedures for the expedited consideration of three legislative proposals: a resolution disapproving a debt increase, the joint committee bill, and a balanced budget constitutional amendment passed by the other chamber. The specifics of each of these procedures are contained in the relevant sections of this report, but the procedures are similar enough that it is possible to generalize about them.[8]

First and foremost, as is the case with all provisions of law that establish internal congressional procedures, either chamber can unilaterally decide to modify or otherwise disregard the procedures established by the BCA. Under the Constitution, each chamber may "determine the Rules of its Proceedings,"[9] and the BCA even explicitly acknowledges in two cases that the expedited procedures are being created with full acknowledgement of the right of either chamber to modify them.[10] To be clear, this is not to say that individual members or party leaders can deviate from the procedures established by the law without consequence; it is to say that the House or the Senate, acting under its regular rules, could modify the process without the permission of the other chamber. In the House, for example, this might be done by the approval of a special rule reported by the Committee on Rules. In the Senate, unanimous consent agreements might alter the specifics of the BCA's application.

Second, a motivation for the creation of expedited procedures is that they alter a fundamental feature of regular Senate procedure: the right of each Senator to engage in unlimited debate on a

(...continued)

Higher Education Act: Background, Recent Changes, and Current Legislative Issues, by Shannon M. Mahan. For a description of the DL program, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[8] See also CRS Report 98-888, *"Fast-Track" or Expedited Procedures: Their Purposes, Elements, and Implications*, by Christopher M. Davis

[9] Article 1, Section 5.

[10] Section 301 (g)(2), with respect to consideration of a joint resolution disapproving a debt limit increase, and Section 404(2), with respect to the Joint Committee bill, state that the provisions are enacted by Congress with "full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner, and to the same extent as the case of any other rule of that House."

question. Under Senate rules, getting to a vote on most questions essentially requires either unanimous consent or the support of three-fifths of the Senate (normally 60 Senators). Even with the support of 60 Senators, considering legislation can be time consuming, since the cloture process used to limit consideration of any question takes several days and might have to be used in connection with more than one question. The procedures established for the consideration of the joint committee bill and for the consideration of the resolution disapproving a debt limit increase both allow the Senate to take up the legislation without debate, and therefore without the need for a multi-day, supermajority-vote cloture process. All of the expedited procedures created in the BCA place a time limit on floor consideration of the legislation, which means if the Senate has agreed to consider a measure, the Senate will have an opportunity to vote on it. All of the expedited procedures also prevent amendments.

In contrast to the Senate, in the House the same numerical majority that can pass a bill can set the terms for its consideration. For this reason, in part, the House majority might bring up the legislation as it normally does for other bills through adoption of a special rule, although this method is likely to preserve key elements of the expedited procedures including a prohibition on amendments, time restrictions on debate equally divided between a proponent and an opponent, and a prohibition on the motion to recommit.

Another motivation, however, for the creation of expedited procedures in both chambers is to establish a means of ensuring that the measure in question can be brought to the floor even if the leadership (and the committees of jurisdiction) do not seek its consideration. The statutory procedures established in the BCA provide a means by which a numerical majority, and not necessarily the partisan majority, can take up legislation in the House and Senate.

Debt Ceiling Increase and Disapproval Process

Increases in the Debt Limit in Three Installments

The Budget Control Act authorizes increases to the debt limit by at least $2.1 trillion (and up to $2.4 trillion), in three installments. First, upon the certification by the President that the debt subject to limit is within $100 billion of the debt limit, the debt limit is increased by $400 billion immediately.[11] Second, if Congress does not enact into law a joint resolution of disapproval within 50 calendar days of receipt of the certification, the debt limit is increased by an additional $500 billion. If Congress enacts a joint resolution of disapproval (presumably over a presidential veto), the debt limit will not be increased and the Office of Management and Budget is required to sequester budgetary resources on a "pro rata" basis, subject to sequestration procedures and exemptions provided in Sections 253, 255, and 256 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.[12]

[11] President Obama submitted such certification on August 2, 2011. It is available at http://www.whitehouse.gov/the-press-office/2011/08/02/message-president-us-congress.

[12] Sequestration is a process of automatic largely across-the-board spending cuts to non-exempt programs. Under the specified procedures, the cuts would be equally split between defense and non-defense nonexempt programs. For background information on the sequestration process, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

Third, if the debt limit has been increased by the first $900 billion and upon another certification that the debt subject to limit is within $100 billion of the debt limit, Congress will have 15 calendar days of receipt of the certification to enact into law a joint resolution of disapproval to prevent another increase in the debt limit (again over a presumed presidential veto). If Congress does not enact such resolution, the debt limit is increased by one of three amounts: (1) $1.2 trillion; (2) an amount between $1.2 trillion and $1.5 trillion, if Congress passes and the President signs into law legislation introduced by the Joint Select Committee on Deficit Reduction;[13] or (3) $1.5 trillion, if a Constitutional amendment requiring a balanced budget is submitted to the states for ratification.

In summary, while an initial increase in the debt limit of $400 billion is effective immediately and not subject to congressional disapproval, subsequent additional increases of $500 billion and an amount between $1.2 trillion and $1.5 trillion are subject to congressional disapproval. That is, for either of the two subsequent additional increases in the debt limit, if Congress enacts a joint resolution of disapproval, the debt limit would not be increased by such amounts.

Expedited Procedures for Consideration of Disapproval Resolution

Introduction of a Qualifying Joint Resolution

A joint resolution disapproving either debt limit increase can be considered in both chambers under expedited procedures that limit debate and prevent amendment. A disapproval resolution would qualify for consideration under the expedited procedures of the BCA only if it meets specific content and timing criteria. The BCA mandates the exact language of a disapproval resolution: "That Congress disapproves of the President's exercise of authority to increase the debt limit, as exercised pursuant to the certification under section 3101A(a) of title 31, United States Code."[14] The BCA also provides the title for the joint resolution and states that it may not contain a preamble.

To qualify for expedited consideration, the joint resolution of disapproval also must be introduced by specific times. For the first opportunity to disapprove the increase in the debt limit, the resolution must be introduced on September 6, 7, 8, or 9, 2011.[15] For the opportunity to disapprove the second increase, the resolution must be introduced either the day the certification (that the debt subject to limit is within $100 billion of the debt limit) is received from the President or on any of the next three calendar days.

The BCA procedures apparently aim to ensure an opportunity for timely consideration of a disapproval resolution. In both chambers, any Member can introduce the joint resolution. Furthermore, if a chamber would otherwise not be in session when the President submits the second certification, the BCA requires the House Speaker and Senate majority leader (in consultation with the Senate minority leader) to reconvene their respective chambers within two calendar days after receiving the certification from the President.

[13] The debt limit increase would be equal to the amount by which the legislation reduces the deficit, if such amount exceeds $1.2 trillion, up to $1.5 trillion.

[14] Section 301(b)(2)(D).

[15] The BCA provides that if the Senate is not in session on any of those days, the joint resolution will qualify for expedited consideration if it is introduced the next calendar day after September 9, 2011 that the Senate is in session.

The BCA anticipates introduction of a joint resolution of disapproval in both chambers.[16] Each chamber could initially consider its own joint resolution, although either eventually the House would need to pass the Senate joint resolution, or the Senate would need to pass the House joint resolution, in order to meet the constitutional requirement that the chambers pass precisely the same text in the same measure. The act also anticipates that each chamber will act on its own proposal by providing that if a chamber receives a joint resolution of disapproval from the other house before it has concluded consideration of its own resolution, it can consider or continue to consider its own legislation, but the final passage vote will be held on the resolution received from the other chamber.

Senate Consideration

After a Senator introduces the joint resolution, it will be placed directly on the Senate calendar instead of being referred to committee.[17] A motion to proceed to the consideration of the joint resolution will not be subject to debate if it is offered within a specified brief period after the certification is received from the President.[18] A non-debatable motion to proceed to a House-passed joint resolution of disapproval could also be made instead, as long as the Senate has not already considered a Senate resolution of disapproval. This non-debatable motion to proceed expedites the process of bringing a matter before the Senate.[19] Under the regular rules of the Senate, motions to proceed are usually subject to debate, so it therefore is sometimes necessary to gain the support of three-fifths of the Senate (60 Senators if no more than one vacancy) in order to end debate on the question of taking up a matter. In addition, if any motion to proceed to the disapproval resolution is disagreed to, another may be offered, although presumably only in the time frame provided. In addition, the BCA waives all points of order that could be raised against consideration of the joint resolution, and it also precludes several motions that could be used to delay its consideration.

If a majority of Senators voting agree to the motion to proceed, the joint resolution "shall remain the unfinished business until disposed of,"[20] meaning that it would require unanimous consent to turn to any other business and even the maturation of a cloture motion on another matter would not interrupt its consideration. The total time for consideration of the resolution is limited to 10 hours, equally divided between the majority and minority leader (or their designees). Because the time is controlled, Senators who wish to speak will need to be yielded time from one of the

[16] If no Senator introduces a joint resolution of disapproval, and the House passes one, then the House-passed joint resolution is to be eligible for Senate consideration under the expedited procedures.

[17] Regular Senate rules provide a means for a single Senator to cause a measure to be placed directly on the calendar, but it takes several legislative days. For more information, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by Michael L. Koempel.

[18] More specifically, for the joint resolution of disapproval that must be introduced between September 6 and 9 (or, if the Senate is not in session those days, the next calendar day after September 9 that it is in session), the non-debatable motion to proceed is in order from the time of introduction until September 14, 2011, or a maximum of 8 days after introduction. For the joint resolution to disapprove the second debt limit increase, the non-debatable motion to proceed is in order from the time of the joint resolution's introduction (which can occur the day the certification is received or on any of the next 3 calendar days) until the sixth day after the certification is received, or a maximum of 6 days after introduction.

[19] Under Section 301(d)(3)(A) of the BCA, the motion to proceed to a joint resolution of disapproval can be made "Notwithstanding Rule XXII" (the cloture rule). Presumably, a motion to proceed could be made even if the Senate was considering another matter on which cloture had been invoked, something otherwise barred by Rule XXII.

[20] Section 301(d)(3)(A).

Leaders or another Senator acting as the floor manager. Because total *consideration* time is limited, time spent making requests or motions and time spent conducting quorum calls and votes, in addition to time spent in debate, will all count toward the 10 hour limit.[21] The Senate could consider the measure for less than 10 hours by unanimous consent, if Senators controlling time yield back time, or if a majority agree to a non-debatable motion to further limit debate. Several motions, most significantly any motion to amend the joint resolution, are precluded by the BCA, and appeals from decisions of the Chair are not debatable. A House-passed joint resolution of disapproval would be subject to the same procedures if no joint resolution is introduced or considered in the Senate.

Under the BCA, the Senate is to vote on passage of the joint resolution immediately after the expiration of the 10 hours of consideration, except that any Senator could request a live quorum call just prior to the vote.[22] If, at the time of the vote, the Senate has received the House version of the disapproval resolution, the final passage vote would occur on the House resolution instead of the Senate resolution.

House Consideration

In the House, after a joint resolution of disapproval is introduced, it is to be referred to committee as under the regular rules of the House. The BCA provides that if a committee fails to report within five calendar days after introduction, it will be automatically discharged and the joint resolution will be placed on the House calendar.

The BCA creates a special procedure for the House to take up the joint resolution, debate it for two hours, and take an up-or-down vote thereon without allowing Members to offer an amendment or a motion to recommit. The House could use these statutory procedures, or it might instead choose to take up the joint resolution through a special rule reported by the Rules Committee or by another method available under regular House rules.

Under the BCA procedures, once the committee has reported the measure (or been discharged), and no later than the sixth day after its introduction, any Member can move that the House take up the joint resolution. All points of order against the motion to proceed to the joint resolution are waived by the BCA, and the motion is not debatable; consequently the House would vote on the taking up the resolution immediately after the motion was made.[23]

If the House agrees to consider the joint resolution, it will be debated for up to two hours, equally divided and controlled by a proponent and an opponent. All points of order against the joint resolution are waived, and no amendments can be offered. Under ordinary House procedures the minority party is generally guaranteed a chance to offer a motion to recommit a bill prior to final passage, a motion that is effectively an opportunity to amend the bill.[24] No such opportunity is available under the statutory provisions.

[21] Presumably, the time used for votes and the time used for quorum calls will be charged equally to each side.

[22] Section 301(d)(3)(C).

[23] To prevent questions already decided by the House from being re-visited, once a motion to proceed has been disposed of, another motion to proceed is not in order. In addition, motions to reconsider the question of taking up the joint resolution or the question on passage are not in order.

[24] For more information, see CRS Report 98-383, *Motions to Recommit in the House*, by Betsy Palmer.

If the House has received a joint resolution of disapproval from the Senate prior to voting on its own version of the joint resolution, the final passage vote in the House will occur on the Senate vehicle.

Procedures Following a Presidential Veto and the Enactment Deadline

Although only a majority of each chamber is necessary to agree to a resolution of disapproval, preventing an increase in the debt limit might ultimately require supermajority support. This is because if the Treasury has advised the President that further borrowing is required to meet existing commitments, the President might normally be expected to veto the congressional resolution of disapproval. Congress can override a presidential veto, but to do so would require the support of two-thirds of each chamber. The joint resolution of disapproval would be returned to the chamber that originated it, which under the statutory procedures will be the chamber that passes it first. Only if that chamber agreed to override the veto with a two-thirds vote would the second chamber also have an opportunity to vote on the question of overriding the veto.

The BCA limits debate on any veto message received in the Senate to one hour, equally divided between the majority and minority leaders or their designees.[25] Under regular Senate rules, the question of overriding the veto, and some other available motions that could displace consideration of the veto message, are subject to extended debate. The statutory debate limitation could allow a numerical majority of the Senate to get to a vote on the question of overriding the veto more quickly than might be possible under its regular rules. In the House, the veto message would be considered under its regular procedures which would normally limit debate to one hour.[26]

The BCA limits the time by which each potential disapproval resolution must be enacted into law. The disapproval resolution responding to the President's first certification has 50 calendar days from the time the Congress received the certification to be enacted into law. Similarly, a disapproval resolution in response to the President's second certification must be enacted into law within 15 calendar days from the time Congress receives the certification. As a result, successful enactment of a disapproval resolution might require not just passage by both chambers and presentment to the President but also, if the President returns the measure, a timely veto override vote in each chamber.

Under the Constitution, the President has up to 10 days, excluding Sundays, to either sign or veto a measure sent by the Congress.[27] If these days count toward the deadline for enactment, the length of time the President holds the measure could influence how much time, if any, Congress would have to act on a possible veto before the expiration of time allowed by the statute for enactment. Under the act, accordingly, if Congress passes a joint resolution of disapproval, the time that the President is in possession of the enrolled joint resolution is apparently not to be counted toward the 50 (or 15) days. [28]

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[25] Section 301(f)(4)(B).

[26] See CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

[27] After 10 days, if Congress is in session, the measure would become law without the President's signature. If Congress has ended its session and the President does not sign the measure, it will not become law; this action is known as a "pocket veto." For more information, see CRS Report RS22188, *Regular Vetoes and Pocket Vetoes: An Overview*, by Kevin R. Kosar.

[28] There is apparent ambiguity with regard to how days in which either house is not in session are to be counted. (continued...)

Statutory Limits on Discretionary Spending

Section 101 of the Budget Control Act of 2011 (BCA) amends Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA; Title II of P.L. 99-177, 2 U.S.C. 900-922) to establish 10-year adjustable statutory limits (or caps) on discretionary spending, enforced primarily through a sequestration process. Discretionary spending is provided and controlled through the annual appropriations process.[29] Statutory limits on discretionary spending were previously created by the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508), which also amended the BBEDCA, and twice were extended, in 1993 and 1997, but expired at the end of FY2002.[30] Section 104 of the BCA repeals the expiration date in the BBEDCA, and thereby restores many features of the previous statutory discretionary limits, including the sequestration enforcement process.

The new statutory limits cap the amount of new budget authority for each fiscal year covering FY2012-FY2021 (see **Table 1**).[31] For FY2012 and FY2013, the spending limits are divided into two separate categories: security and nonsecurity. The security category includes discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150). The nonsecurity category includes discretionary spending in all other budget accounts. For FY2014-FY2021, the limits cap spending in a single category (specified as the discretionary category), which includes all discretionary spending in all budget accounts.

Adjustments

The BCA allows for the adjustment of the discretionary limits for six different purposes.[32] Five of the six adjustments effectively exempt certain discretionary spending from the statutory caps. The limits could be adjusted to accommodate: (1) changes in concepts and definitions; (2) appropriations designated as emergency requirements; (3) appropriations designated for Overseas Contingency Operations/Global War on Terrorism (such as for military activities in Iraq and

(...continued)

Section 301(b)(1) states that the 50 days and 15 days run "(regardless of whether Congress is in session)." Section 301(f)(4) states that the period beginning from presentation and ending the date the President "signs, allows to become law without his signature, or vetoes and returns the joint resolution (but excluding days when either House is not in session) shall be disregarding in computing the appropriate calendar day period...."

[29] Discretionary spending represents a portion of total federal spending. The other portion, referred to as direct spending (also referred to as mandatory spending), is generally provided in or controlled by authorizing legislation that requires federal payments to individuals or entities, often based on eligibility criteria and benefit formulas set forth in statute. Some direct spending is funded in appropriations acts, referred to as appropriated entitlements, but is controlled by the authorizing statute(s). Direct spending, including direct spending provided in appropriations acts, is not subject to the statutory limits.

[30] For further information, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch.

[31] For information on the projected savings and impact on budget deficit projections resulting from these limits, see Congressional Budget Office, Letter to Honorable John A. Boehner, Speaker, U.S. House of Representatives, and Honorable Harry Reid, majority leader, United States Senate, cost estimate of the Budget Control Act of 2011, August 1, 2011, available at http://www.cbo.gov/doc.cfm?index=12357.

[32] Previous discretionary limits under the BEA, as extended through FY2002, also allowed for specific adjustments.

Afghanistan); (4) appropriations for continuing disability reviews and redeterminations; (5) appropriations for controlling health care fraud and abuse; and (6) appropriations designated as being for disaster relief.

Table 1. Statutory Limits on Discretionary Spending and Certain Adjustments, FY2012-FY2021

(in billions of budget authority)

Fiscal Year	Discretionary Spending Limits[a]	Maximum Adjustments for Program Integrity Initiatives[b]
2012	$684 security	$0.893
	$359 nonsecurity	
2013	$686 security	$1.050
	$361 nonsecurity	
2014	$1,066	$1.253
2015	$1,086	$1.484
2016	$1,107	$1.561
2017	$1,131	$1.723
2018	$1,156	$1.743
2019	$1,182	$1.763
2020	$1,208	$1.784
2021	$1,234	$1.805

Source: Sections 251(b) (relating to adjustments) and 251(c) (relating to limits) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25).

a. The security category includes discretionary spending for the Departments of Defense, Homeland Security, and Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account, and all accounts in the international affairs budget function (budget function 150). The nonsecurity category includes discretionary spending in all other budget accounts.

b. The adjustments for program integrity initiatives include appropriations for "continuing disability reviews" under Disability Insurance and Supplemental Security Income (SSI) and "redeterminations" of eligibility under SSI beneficiaries and appropriations for the "health care fraud abuse program at the Department of Health and Human Services." Adjustments also are allowed to accommodate changes in concepts and definitions, as well as discretionary appropriations designated as emergency requirements, designated for Overseas Contingency Operations/Global War on Terrorism, and designated as being for disaster relief. The adjustments for the first three will equal the amounts so designated, with no limit on such adjustments, whereas the adjustments for the last one, disaster relief, is limited each year to an amount based on an historical average for such funding, as described in the text. OMB is required to calculate the initial such average within 30 days of enactment of the BCA.

The first three adjustments are not capped, and therefore the statutory limits would be adjusted by the amounts meeting the conditions for the adjustment. Once a year, the Office of Management and Budget (OMB) can adjust the limits to reflect changes in concepts and definitions, in consultation with the Committees on Appropriations and Budget in each house. In addition, the limits must be adjusted by the amounts of appropriations designated as emergency requirements and those designated for Overseas Contingency Operations/Global War on Terrorism

(OCO/GWOT) in statute and subsequently by the President.[33] The emergency and OCO/GWOT designations must be made on an account-by-account basis; this requirement presumably would preclude a blanket designation, for example, covering all appropriations provided in an appropriations act.

The three other adjustments are capped at certain amounts of appropriations for the specified purposes for each year. Two of the three adjustments allow for additional appropriations for program integrity initiatives—activities that are intended to produce a net reduction in federal spending;[34] the remaining adjustment allows for additional appropriations for relief activities associated with unexpected natural disasters. First, the adjustment for appropriations for "continuing disability reviews" under Disability Insurance and Supplemental Security Income (SSI) and "redeterminations" of eligibility under SSI beneficiaries would be the amount provided for such activities in excess of $273 million each year, with a maximum adjustment ranging from $623 million for FY2012 to $1,309 million for each of fiscal years 2017 through 2021, allowing for a total adjustment of $11,132 million over the entire period of FY2012-FY2021. Second, the adjustment for appropriations for the "health care fraud abuse program at the Department of Health and Human Services" would be the amount provided for such activities in excess of $311 million each year, with a maximum adjustment ranging from $270 million for FY2012 to $496 million for FY2021, allowing for a total adjustment of $3,927 million over the entire period of FY2012-FY2021. Finally, the adjustment for appropriations that Congress designates as being for disaster relief in statute may not exceed, in any year, "the average funding provided for disaster relief over the previous 10 years, excluding the highest and lowest years" plus the amount by which the appropriations so designated in the preceding fiscal year was less than the applicable average funding level.[35] For example, if in a fiscal year Congress designates $10 million less than the average level, then in the next fiscal year, the maximum adjustment could equal the applicable average level for that year plus the $10 million from the previous year.

Enforcement

The discretionary spending limits are primarily enforced through a sequestration process.[36] Sequestration is the largely across-the-board cancellation of budgetary resources (i.e., spending cuts) in nonexempt accounts.[37] If the final sequestration report (explained below), issued within

[33] Any adjustment is based on the designation, not on the purpose for which the appropriations are provided. That is, Congress and the President may designate any appropriations as emergency requirements or for OCO/GWOT, as they so choose. Section 102 of the BCA defines in statute, by amending the BBEDCA, the term "emergency." However, this definition is not directly tied to the designation for purposes of any adjustments to the statutory limits on discretionary spending.

[34] For further information on such initiatives, see CRS Report RL34217, *Medicare Program Integrity: Activities to Protect Medicare from Payment Errors, Fraud, and Abuse*, by Cliff Binder.

[35] "Disaster relief" is defined as "activities carried out pursuant to a determination under Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))." Appropriations for such "disaster relief" may not be designated as emergency requirements or for OCO/GWOT. Within 30 days of enactment of the BCA, OMB is required to report to the Committee on Appropriations and Budget of each House the average funding provided for disaster relief.

[36] Under Section 258(b) of the BBEDCA, as restored by the repeal of the expiration date in Section 104 of the BCA, the sequestration process is suspended upon the enactment of a declaration of war.

[37] "Budgetary resources" include new budget authority, unobligated balances, and obligation limitations. Certain programs and budget accounts are exempt from any sequestration, such as all programs administered by the Department of Veterans Affairs, as provided by Section 255 of the BBEDCA (as restored by Section 104 of the BCA). In addition, the President may exempt any military personnel account or provide for a lower uniform percentage (continued...)

15 calendar days after the end of a session of Congress, indicates that discretionary appropriations within a category exceed the spending limit for that category, sequestration is triggered automatically. The President is required to issue a sequestration order canceling budgetary resources in nonexempt accounts, within the category in which the breach occurred, by an amount necessary to eliminate the breach.[38] For instance, if for FY2012 or FY2013 discretionary appropriations within the security category are enacted that results in a breach of the security category limit for either year, a sequestration of only security spending would occur to eliminate that breach. As noted above, for FY2014-FY2021, only one category exists for total discretionary appropriations; therefore, a sequestration, if necessary, would occur in that total discretionary appropriations category. Under the sequestration process, each nonexempt account is reduced by a uniform percentage, except that certain health and medical care accounts are limited to a 2% reduction, under Section 256(e) of the BBEDCA (as restored by Section 104 of the BCA).[39]

Along with the end-of-the-session sequester, a within-session sequester is required if an appropriation, such as a supplemental appropriation, causes a spending limit to be breached during a fiscal year. In this case, sequestration would occur 15 days after the enactment of the appropriation. If such a breach occurs in the last quarter of the fiscal year (i.e., July 1 through September 30), the applicable spending limit for the following fiscal year must be reduced by the amount of the breach.

The BCA also provides for the enforcement of the discretionary spending limits by points of order during the consideration of appropriations legislation in each house (new Section 314(e) of the Budget Act).[40] Because the caps limit the total amount of budget authority for the budget year, the order in which an individual appropriations bill is considered will affect whether or not it is subject to the point of order. The point of order most likely would apply to, and during the consideration of, the last appropriations act considered by each House, and any supplemental appropriations acts considered after the regular appropriations acts have been enacted.[41] In the Senate, a motion to waive the point of order requires an affirmative vote of three-fifths of Senators, duly chosen and sworn (i.e., 60 Senators if there is no more than one vacancy);[42] in the House, a special rule waiving the point of order would require an affirmative majority vote.

(...continued)

reduction in any such account, provided that he notify Congress of such actions by August 10 and, if a sequestration is required, that other accounts in budget subfunctional category 051 ("Department of Defense-Military") be reduced by a uniform percentage to offset the amount not reduced by such exemption.

[38] Section 258A of the BBEDCA provides expedited procedures in the Senate for a joint resolution modifying a final sequestration order.

[39] If a budget account has received only a part-year appropriation at the time of the sequestration order, in a continuing appropriations act, for example, the reduction is taken from the annualized amount of the part-year appropriation, and from the full-year amount, when a full-year appropriation is enacted.

[40] The BCA amends Section 314(a) of the Budget Act to allow the chairs of the Budget Committee of each house to make the adjustments provided under the new Section 251 of the BBEDCA, as described above.

[41] Generally, the primary procedural constraint on the level of discretionary spending provided in appropriations acts is the point of order enforcing the Section 302(b) allocations associated with the congressional budget resolution. To the extent the levels of discretionary spending included in the congressional budget resolution for a fiscal year are consistent with the statutory caps for that year, the Section 302(b) allocations will continue to be the primary procedural enforcement of discretionary spending levels. For additional information on the suballocations, see CRS Report RS20144, *Allocations and Subdivisions in the Congressional Budget Process*, by Bill Heniff Jr.

[42] An appeal from the ruling of the chair on such a point of order requires only a majority vote. However, this point of order is duplicative of the point of order under Section 312(b) of the Budget Act, which requires an affirmative vote of three-fifths of Senators for a motion to waive the point of order and for an appeal from the decision of the chair.

Reports

OMB and CBO are required to issue several reports throughout each year to assist Congress in complying with the spending limits and, in the case of OMB's final sequestration report, to trigger the sequestration of budgetary resources, if any limit is exceeded.[43] First, for each appropriations act signed into law, OMB is required to issue a cost estimate of the legislation within seven days of its enactment; CBO is required to provide to OMB its cost estimate of such legislation as soon as practicable after Congress completes action on such legislation. Second, three separate sequestration reports are required, at certain times during the year, to provide the status of the discretionary spending limits, including any appropriate adjustments to the limits: (1) a sequestration preview report, (2) a sequestration update report, and (3) a final sequestration report.[44] OMB is required to issue such reports with the President's budget submission, by August 20, and 15 days after the end of a session, respectively; CBO is required to issue its own sequestration update and final sequestration reports five days prior to OMB's reports.[45] Most importantly, OMB's final sequestration report generally is the only report triggering a sequester. Therefore, if a breach has occurred, the final report must include the percentage reduction and amount of budgetary resources to be sequestered, for each affected budget account.

Rules Related to Provisions Designated as Emergency in the House

Section 105(a)(3) of the BCA amends the Congressional Budget Act to establish certain procedural rules relating to the treatment of, and consideration of legislation containing, provisions designated as an emergency requirement.[46] In general, the rules allow the House to exempt from congressional budget constraints provisions designated as emergency requirements pursuant to the BBEDCA, as amended by the BCA. They also provide opportunities for Members to strike such designations and offer proposals to offset the budgetary effects of a designated provision.

First, any new discretionary appropriations designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA will not be counted for purposes of Titles III and IV of the Budget Act.[47] As explained above (see "Adjustments" section), under Section 251(b)(2)(A) of the BBEDCA, the statutory discretionary spending limits may be adjusted to accommodate

[43] Many of these reports are required by Section 254 of the BBEDCA, which was restored by Section 104 of the BCA.

[44] In addition, if a supplemental appropriations act is enacted before July 1 and would cause a spending limit to be breached, OMB would be required to issue a within-session sequestration report 15 days after the enactment of the appropriation.

[45] Section 104(b) of the CBA relieved CBO from issuing a sequestration preview report.

[46] Specifically, it amends Section 314 of the Budget Act.

[47] The new section specifies that such rules would also apply to a provision "reducing revenue" designated as an emergency requirement. However, Section 251(b)(2)(A) of the BBEDCA, as amended by the BCA, pertains to discretionary appropriations so designated only; that is, presumably a provision reducing revenue could not be designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA. Therefore, it is unclear how this new provision would affect legislation reducing revenue. In addition, the BCA appears to restate Section 314(d)(1) in a new Section 314(d)(2)(A); the only difference is that Section 314(d)(2)(A)refers to "a designation ... as an emergency pursuant to paragraph (1)," which is Section 314(d)(1). Therefore, this second provision presumably would have no additional effect.

appropriations designated, on an account-by-account basis, as emergency requirements.[48] The rules change effectively allows the House to exempt such spending from certain spending constraints, such as the appropriations subcommittee allocations under Section 302(b) of the Budget Act.

Second, new Section 314(d)(2)(B) of the Budget Act provides that the budgetary effects of a motion to strike a designation (presumably an emergency designation)[49] shall not be counted for purposes of Titles III and IV of the Budget Act and the House Standing Rules. The rule would allow a Member to offer an amendment to strike the designation without being subject to a point of order. Without this rule, a motion to strike an emergency designation contained in an appropriations act, for example, would likely be subject to a point of order under Section 302(f) of the Budget Act because striking the designation would cause the applicable new budget authority to be counted and therefore likely cause the appropriations bill to exceed its Section 302(b) allocation.[50]

Finally, new Section 314(d)(2)(C) of the Budget Act provides that an amendment proposing to strike an emergency designation and also to reduce "each amount appropriated or otherwise made available" shall be in order at any time during the reading of a bill for amendment. The purpose of such an amendment would presumably be to make across-the-board reductions in spending already subject to the applicable spending cap sufficient to accommodate the appropriation newly being subjected to the spending constraint. Without this rule, such an amendment, making across-the-board reductions throughout the bill, generally would not be in order for at least three reasons: (1) it proposes to amend a paragraph or section in a bill not yet read for amendment; (2) it proposes to amend a paragraph or section already read for amendment; and (3) it proposes to amend the bill in more than one place.[51] Under the rule, nevertheless, such an amendment presumably would be subject to a demand for a division of the question (thereby forcing separate votes on striking the designation and reducing the appropriated amounts).

Senate Budget Enforcement for FY2012 and FY2013

Section 106 of the Budget Control Act establishes certain procedural provisions for the purpose of budget enforcement for FY2012 and FY2013 that apply in the Senate only, which expire, with respect to each of these fiscal years, if Congress adopts a budget resolution for that year. The

[48] The BCA also amended Section 314(a) of the Budget Act to allow the chair of the House Committee on the Budget to "make appropriate budgetary adjustments of new budget authority and the outlays flowing therefrom in the same amount as required by section 251(b) of the [BBEDCA]." "Appropriate budget adjustments" might include the amounts included in, and associated with, the congressional budget resolution, which are enforced under Titles III and IV of the Budget Act. Presumably, the chair would not make such adjustments if the budgetary effects were not counted as provided under Section 314(d)(1).

[49] There appears to be some ambiguity in the plain text of the rule as to an applicable "designation." The rule specifies "a designation under subparagraph (A)" (i.e., Section 314(d)(2)(A) of the Budget Act), which refers to "a designation pursuant to paragraph (1)" (i.e., Section 314(d)(1) of the Budget Act). Section 314(d)(1) does not appear to confer any authority to designate a provision as an emergency; instead, the section, as noted above, requires that the budgetary effects of a provision designated as an emergency requirement pursuant to Section 251(b)(2)(A) of the BBEDCA not be counted for purposes of certain budget constraints.

[50] For further information on spending allocations under the Budget Act, see CRS Report RS20144, *Allocations and Subdivisions in the Congressional Budget Process*, by Bill Heniff Jr.

[51] For further information on general restrictions on amendments in the House, see CRS Report 98-995, *The Amending Process in the House of Representatives*, by Christopher M. Davis.

provisions would establish budget levels enforceable in the Senate, including constraints on spending provided in appropriations acts for FY2012 and FY2013, if the House and Senate are not able to agree on a budget resolution for the respective fiscal year.[52]

Specifically, these procedural provisions of the BCA require the chair of the Senate Budget Committee (SBC) to file a statement of levels of various budgetary amounts that would ordinarily be established by the budget resolution for FY2012, including committee spending allocations, aggregate spending and revenue levels, and Social Security revenue and outlay levels, covering the period FY2011-FY2021.[53] The budget levels filed must be consistent with the statutory discretionary spending limits, established by Section 101 of the BCA, and with CBO's March 2011 baseline levels (adjusted to account for the budgetary effects of the BCA, as well as of any other legislation enacted prior to the BCA).[54] Under the provisions of Section 106 of the BCA, these levels are to have the same force and effect as if they were included and associated with a budget resolution for FY2012 adopted by Congress.

The SBC chair would also be required to file such budget levels covering the period FY2012-FY2022, by April 15, 2012, consistent with the same baseline parameters, and such levels would have the same force and effect as if they were included and associated with a budget resolution for FY2013 adopted by Congress.

Finally, the SBC chair is required to reduce the balances on the Senate Pay-As-You-Go (PAYGO) ledger to zero. The Senate PAYGO rule generally requires that any legislation projected to increase direct spending or reduce revenues must also include equivalent amounts of direct spending cuts, revenue increases, or a combination of the two, so that the legislation does not increase the on-budget deficit over a six-year period and an 11-year period.[55] The PAYGO ledger records any projected deficit reduction resulting from legislation (except reconciliation legislation) enacted since the beginning of the calendar year and not accounted for in the baseline, as defined by the rule. Therefore, reducing the balance to zero would prevent such balances (in particular, those resulting from the deficit reduction included in the BCA) from being used to offset increases in the deficit resulting from legislation subsequently considered in the Senate.

[52] The provisions are similar to so-called "deeming resolution" provisions that the Senate and the House have adopted individually in the absence of an agreement on a budget resolution. For more information on such "deeming resolutions," see CRS Report RL31443, *The "Deeming Resolution": A Budget Enforcement Tool*, by Megan Suzanne Lynch.

[53] Once filed, the budget levels presumably will also be submitted for printing in the *Congressional Record*.

[54] The chair may also adjust such levels pursuant to the adjustments allowed under the BCA, such as the adjustment for appropriations designated for Overseas Contingency Operations/Global War on Terrorism. In addition, Section 106(d)(2) of the BCA provides that Sections 412 (relating to administrative expenses of the Social Security Administration and of the Postal Service), 413 (relating to the application and effect of such adjustments), and 414 (providing authority to make adjustments to reflect changes in concepts and definitions) of S.Con.Res. 13, the FY2010 budget resolution, shall remain in effect.

[55] The Senate PAYGO rule is provided in Section 201 of S.Con.Res. 13 (110th Congress), the FY2008 budget resolution. For further information on the Senate PAYGO rule, see CRS Report RL31943, *Budget Enforcement Procedures: Senate Pay-As-You-Go (PAYGO) Rule*, by Bill Heniff Jr.

Joint Select Committee on Deficit Reduction

Title IV of the Budget Control Act establishes a Joint Select Committee on Deficit Reduction, composed of an equal number of Senators and Members of the House, and instructs it to develop a proposal that would reduce the deficit by at least $1.5 trillion over FY2012 to FY2021. The BCA provides no other guidelines regarding the policy content of the proposal. The proposal, if reported by a majority of the joint committee by November 23, 2011, could be considered by each chamber under special procedures that prevent amendment and limit debate. The expedited procedures represent a significant divergence from regular Senate procedures, under which it can generally become necessary to obtain agreement among at least three-fifths of the Senate (normally 60 Senators) in order to bring debate to a close and the chamber to a vote on a matter. The expedited procedures in each chamber will only apply to a joint committee bill passed on or before December 23, 2011. If a joint committee bill reducing the deficit by at least $1.2 trillion is not signed into law by January 15, 2012, then the process of automatic spending reduction created by the BCA will begin to occur in January of 2013.

The BCA identifies several other specific actions the joint committee and Congress are expected to take by certain dates (**Appendix B, Table B-1**). In some cases, the BCA establishes direct, procedural consequences if an action is not completed by a stated time. In other cases, there is no immediate procedural result if an action is not taken, or if it is not taken by a stated deadline. Ultimately, if the joint committee bill does not become law, then the consequence is the automatic spending reduction process explained in the following section of this report.

Establishment of the Joint Committee

Membership

Party leaders appointed the 12 members of the Joint Select Committee on Deficit Reduction by the target date established in the BCA of August 16, 2011. [56] The Speaker of the House, the House minority leader, the Senate majority leader, and the Senate minority leader each appointed three members. From among these 12 joint committee members, the Senate majority leader appointed a co-chair and the House Speaker appointed the other co-chair. If any seat on the joint committee becomes vacant, due to resignation or otherwise, the leader who appointed the member vacating the seat would appoint a replacement within 14 days. Members of the joint committee will serve until its termination on January 31, 2012. Committee members must comply with the ethics rules of the their respective chambers (Section 401(c)(2)).[57]

[56] The Members of the House appointed to the joint committee are Jeb Hensarling (R-TX), co-chair; Dave Camp (R-MI); Fred Upton (R-MI); Xavier Becerra (D-CA); James E. Clyburn (D-SC); and Chris Van Hollen (D-MD). The Senators appointed to the joint committee are Patty Murray (D-WA), co-chair; Max Baucus (D-MT); John F. Kerry (D-MA); Jon Kyl (R-AZ); Rob Portman (R-OH); and Patrick J. Toomey (R-PA).

[57] For more information regarding Senate Ethics, see http://ethics.senate.gov/downloads/pdffiles/manual.pdf. For more information regarding House Ethics, see http://ethics.house.gov/Default.aspx.

Staffing and Funding[58]

The co-chairs jointly are to hire a staff director as well as other staff for the committee. The co-chairs are also empowered to fix the compensation of staff "within guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate."[59] Staff of the committee must comply with ethics rules of the Senate.[60] The BCA directs federal agencies to "provide technical assistance" if requested in writing by the co-chairs.[61]

Funding for the committee is provided equally from House and Senate appropriations accounts. The committee is "authorized to incur expenses in the same manner and under the same conditions as the Joint Economic Committee."[62]

Development of the Joint Committee Recommendations

The Budget Control Act requires the joint committee to hold its first meeting no later than September 16, 2011. The committees of the House and Senate may submit recommendations regarding deficit reduction to the joint committee, for which the BCA establishes a deadline of October 14, 2011. The act neither requires committees to submit recommendations nor requires the joint committee to consider the recommendations. Generally, however, both chambers rely on the expertise of committees with jurisdiction over policy matters, and ultimately, of course, the joint committee proposal can succeed only with the support of a numerical majority in both chambers.

The joint committee is expected to develop a report of its findings and recommendations as well as legislative language to carry out the recommendations. The report is required to contain a cost estimate prepared by CBO, and the legislation is required to include a "statement of the deficit reduction achieved by the legislation over the period of fiscal years 2012 to 2021."[63] The report may contain supplemental, additional or minority views, provided that a joint committee member gave notice of the intent to submit such views at the time of the vote on the report and submitted the views in writing to the committee staff director within 3 calendar days of the vote. The BCA places no other requirements on the content of the report or on the legislative language.[64] It could recommend changes to revenue, spending, or both; it might even propose new budget enforcement mechanisms.

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[58] This section authored by Ida A. Brudnick, Analyst on the Congress. Questions concerning congressional staff and funding for the committee should be directed to her at 7-6460.

[59] Section 401(c)(1). These may include, for example, rules and laws pertaining to pay ceilings, pay dates, the Congressional Accountability Act, financial disclosure, gifts, conflicts of interest, and political activities. For additional information, see the Senate Rules at http://rules.senate.gov/public/index.cfm?p=RulesOfSenateHome, and the Senate Ethics Manual at http://ethics.senate.gov/downloads/pdffiles/manual.pdf.

[60] Section 401(c)(2). For more information regarding Senate Ethics see http://ethics.senate.gov/downloads/pdffiles/manual.pdf. For more information regarding House Ethics, see http://ethics.house.gov/Default.aspx

[61] Section 401(b)(5)(G).

[62] Section 401(b)(5)(B). This section refers to authorized expenses of the Joint Economic Committee under 15 U.S.C. 1024(d), which addresses the employment and compensation of personnel; cost of stenographic services; and utilization of Government services and private research agencies.

[63] Section 401(b)(3)(B)(i).

[64] Under Section 401(b)(3)(B), any change to House Rules or the Standing Rules of the Senate proposed in either the report or the legislative language "shall be considered as merely advisory."

The joint committee must vote on proposed legislative language as well as an accompanying report by November 23, 2011. If the committee does not vote by that date, no legislation will be eligible for consideration under the expedited procedures of the BCA. Support from a majority of the joint committee, or seven members if no vacancies, is necessary to approve the report and the legislative language. If the language and report are approved, both must be transmitted to the President, Vice President, Speaker of the House, and majority and minority leaders of both chambers by December 2, 2011.

Procedures for the Operation of Joint Committee Meetings

Title IV of the Budget Control Act also establishes several rules concerning the operation of joint committee meetings and hearings. Some of these rules resemble the existing standing rules of each chamber; others are unique to the joint committee.

The BCA states that a quorum of the joint committee, or the number of members required to be present for the conduct of business, is seven. This is the minimum number of members who must be present at any vote or any meeting of the committee, including hearings. If seven members are not present, then presumably any member of the committee could make a point of order, under the BCA, that a quorum is not present. If the member presiding determined that a quorum was not present, and the joint committee could not establish a quorum, the committee presumably would adjourn. Most committees of the House and Senate have lower quorum requirements, often just two members, for the receipt of testimony, and often one-third for business meetings other than the vote to report. The BCA also precludes "proxy voting," or the practice, common in the Senate but forbidden by House rules, of allowing another member of a committee (usually the chair or ranking member) to cast a vote for a member who is not present. Furthermore, the agenda for any meeting must be made available to all members of the joint committee at least 48 hours ahead of time.

The BCA grants the joint committee the authority to conduct hearings, including the power to require witness attendance and submission of documentation. The authority is similar to that granted to House committees in House Rule XI clause 2(m)(1) and to Senate committees in Senate Rule XXVI, paragraph 1. The statements of any witnesses appearing before the joint committee must be submitted in writing two calendar days prior to the hearing, unless the co-chairs waive the requirement. Many standing committees rules in both chambers require witness testimony to be submitted two days in advance, longer than the one day required by the Senate (Rule XXVI, paragraph 4(b)) and more specific than the House rule (House Rule XI, clause 2(g)(4) which states that committees shall require written statements in advance). Finally, the co-chairs must publicly announce any hearings seven days in advance, unless they determine there is good cause to provide less notice. The hearing notice requirement is similar to the week required under House and Senate rules (House Rule XI, clause 2 (g)(3) and Senate Rule XXVI, paragraph 4).

The joint committee cannot vote on the question of approving the report or legislative language unless CBO cost estimates mentioned above have been available to its members for at least 48 hours. After any such vote, the report, legislative language, and record of the vote must "promptly"[65] be made available to the public.

[65] Section 401(a)(3)(B)(v).

All other regulations concerning the internal operations of the committee will be established by the joint committee itself. Under House rules, the joint committee is required to adopt written rules of procedure.[66] It is not clear what effect a House-only rule could have on a bicameral entity, but, if the House rule is followed, the joint committee will meet in public to consider its rules (unless a majority agree by recorded vote to close the meeting).[67]

Expedited Procedures for Consideration of the Joint Committee Bill

Introduction and Referral of Joint Committee Bill in Both Chambers

If the joint committee transmits its report and proposed legislative language, the Budget Control Act requires the House majority leader (or his designee) and the Senate majority leader (or his designee) to each introduce the proposed language, without change, as a bill. The leaders (or designees) will introduce the legislation "by request," which signals that the act of introduction is not necessarily a personal endorsement of the bill. Two bills will therefore be introduced in Congress, with identical text, but with different numbers (one will be an S. numbered bill and the other an H.R. numbered bill). The House and Senate can then each initially consider its own bill.[68] To meet the Constitutional requirement that both chambers agree to the same legislative measure with the same text, the act provides a means (described in more detail below) for one chamber to vote on final passage of the bill received from the other chamber instead of its own bill. The Constitution also requires that bills affecting revenues originate in the House, and for that reason Section 402(e)(2) ensures that if the joint committee bill contains revenue provisions, it will be the House bill that is eventually presented to the President.

In the Senate, the majority leader or his designee is to introduce the legislative language as the joint committee bill on the first calendar day that the Senate is in session after the joint committee proposal is submitted. The BCA provides for joint referral of the legislation to all committees of jurisdiction. This procedure contrasts with regular Senate practice, under which legislation is, with few exceptions, referred to just one committee, the one with jurisdiction over the subject matter predominant in the bill (Senate Rule XVII, paragraph 1), or, if the bill contains any revenue provisions, typically just to the Committee on Finance. Any committee to which the bill is referred is required to report it without amendment by December 9, 2011; any committee that fails to report by that time will be automatically discharged and the bill will be placed on the Senate legislative calendar, where it is available to be taken up by the full chamber. In this way, the BCA appears to mandate referral while also preventing any committee from blocking floor consideration.[69]

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[66] House Rule X, clause 10(b) requires that any joint committee comply with House Rule XI, clause 2(a).

[67] Clause 2(a) of House Rule XI (which Rule X(10)(b) appears to require to apply to joint committees) states that standing committee rules may not be inconsistent with House rules and directs standing committees to incorporate all of House Rule XI, clause 2 into committee rules "to the extent applicable." Clause 2 of House Rule XI requires that, among other things, meetings be open to the public and that a committee keep a substantially verbatim account of its proceedings.

[68] The BCA provides that if a bill is not introduced or considered in the Senate, and if the House has passed a Joint Committee bill, then that House-passed bill can be considered in the Senate under the expedited procedures described in the act (Section 402 (f)(1)).

[69] Regular Senate procedures provide a method for any single Senator, by taking certain actions on different days in the Senate, to have a bill or joint resolution placed directly on the calendar instead of being referred to committee. For a full explanation, see CRS Report RS22299, *Bypassing Senate Committees: Rule XIV and Unanimous Consent*, by (continued...)

In the House, the majority leader or his designee is to introduce the proposed language as the joint committee bill on the first legislative day[70] after the joint committee proposal is transmitted. The bill will be referred under regular House rules by the Speaker to every committee having jurisdiction over a provision of the bill. Each such committee can report the legislation—favorably, unfavorably, or without recommendation—but cannot report it with amendment and are required to report by December 9, 2011. The BCA creates a privileged motion by which the House could discharge any committee that does not report by the deadline, although general rules also provide the House majority with other means to bring the bill to the floor.

Senate Floor Action

The Senate could consider a bill introduced pursuant to the Budget Control Act under special procedures that differ considerably from general Senate rules. Decision-making in the Senate is shaped by the ability of individual Senators to "filibuster," or to take actions to prevent (or delay) a matter from coming to a vote. To get to a vote on a question in the Senate can require either the consent of every single Senator, or the cloture process, which itself can be time-consuming. A cloture motion is not voted on until two days of session after it is filed. If cloture is successfully invoked by a vote of three-fifths of Senators duly chosen and sworn (60 Senators if there is no more than one vacancy), then consideration of the question can continue for up to 30 additional hours. The time required for the cloture process can be compounded since getting to a final passage vote on a bill might require a successful cloture process on several questions: for example, on the question of taking up the bill, on a major amendment to the bill, and on the bill itself.[71]

The special procedures established in the Budget Control Act are discussed in detail below, but in general they can be understood to expedite the Senate floor process by providing that the bill be taken up without debate and by imposing a time limit on consideration of the bill, thereby avoiding the need to invoke cloture on any question.

Privileged for Consideration

Under the Budget Control Act, a joint committee bill could be promptly brought before the Senate. Once a qualifying bill is on the Senate calendar, the majority leader (or his designee) can move to proceed to the bill. After the bill has been on the calendar for two days of session, any Senator can move that the Senate proceed to the bill. In either case, the motion to proceed to the bill is not debatable and a simple majority vote is all that is needed to take up the bill. If past practice on taking up other measures privileged for consideration is any guide, the Senate might reach a consensus to begin consideration of the bill and not conduct a roll call vote on the motion to proceed.[72] The BCA further allows multiple opportunities for proponents to propose that the

(...continued)

Michael L. Koempel.

[70] Ordinarily, legislative days coincide with calendar days that the House is in session. A "legislative day" begins when the House convenes after an adjournment and ends when the House adjourns.

[71] For more information, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Richard S. Beth, Valerie Heitshusen, and Betsy Palmer.

[72] More specifically, consideration of the Joint Committee bill could begin either when the motion to proceed was made and agreed to by voice vote or when the Senate agreed to take up the measure by unanimous consent.

bill be taken up; even if the Senate disagrees to one motion to proceed to the joint committee bill, additional such motions could be offered and would not be subject to debate.

This BCA procedure differs from regular Senate rules, under which most motions to proceed are debatable. The ability to take up a matter without debate is potentially significant in the Senate. If there is opposition to calling up a bill, the Senate might need to go through the cloture process, as described above, even to reach a vote on the motion to proceed to the bill.

The Budget Control Act addresses additional motions and actions to help ensure that the Senate decide on the question of taking up the bill without delay. It precludes motions to postpone as well as motions to reconsider the vote, motions that if allowed could potentially lead to additional time-consuming roll call votes. It also prevents any Senator from making a point of order against consideration of the joint committee bill. In addition, the bill is apparently given special standing in relation to pending matters on which cloture has already been invoked. Under the BCA, the motion to proceed is in order "Notwithstanding Rule XXII" (the cloture rule), suggesting that perhaps even if the Senate is considering a matter on which cloture has been invoked, which would ordinarily require consideration until disposed of, the motion to proceed to the joint committee bill would be in order.

Privileged for Disposition

If the motion to proceed to the joint committee bill is agreed to, then under the BCA it "shall remain the unfinished business until disposed of."[73] This means that, absent unanimous consent, the Senate cannot turn to other legislative or executive business. A motion to proceed to another bill or to enter executive session to consider a nomination, for example, would not be in order. Nor would consideration of the joint committee bill be interrupted by the maturation of a cloture motion filed on a different pending matter two days of session before the joint committee bill was taken up. The bill itself is also protected from any points of order.

Under the BCA, no amendments can be proposed to the joint committee bill. Senators can debate the bill, but they cannot propose changes to it. This is a departure from regular Senate procedure, under which Senators can offer amendments and, in fact, can offer them on any topic under most circumstances. Consideration of the bill under the BCA is limited to a maximum of 30 hours.[74] All the time spent on consideration of the bill, including time spent debating related motions, voting, and in quorum calls, would count against the 30 hours. In this respect, the expedited procedure would operate similarly to the 30-hour time cap on consideration after cloture is invoked on a bill.[75]

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[73] Section 402(c)(2).

[74] The BCA also makes in order a nondebatable motion to further limit debate on the joint committee bill, which requires a three-fifths vote for approval (normally 60 Senators). The time spent considering the bill could also be less than 30 hours if Senators controlling time "yield back" time or if the Senate modifies the terms of consideration by unanimous consent.

[75] It *would not* operate the way the time limitation works on consideration of a budget resolution or budget reconciliation bill. In both of those cases, the time limit is on "debate," not "consideration," so that at the conclusion of the statutory time limit it is still possible to offer (but not debate) amendments and other motions. This can lead to what has been termed a "vote-a-rama," when the Senate votes on amendments one after another, with a discussion of the amendment (usually just two minutes of it) allowed only by unanimous consent. For more information see CRS Memorandum to the Senate Budget Committee, "Budget Resolutions and Reconciliation Legislation in Calendar Years 1987-2008: Amendments Considered Before and After the Statutory Limit on Debate Expired," by Bill Heniff Jr. (U.S. (continued...)

The Budget Control Act, however, also provides that the 30 hours be controlled by the party leaders, which is different from proceedings under cloture. Under controlled time, Senators are yielded blocks of time for debate from party leaders or bill managers (or their designees). Thus, for consideration of the joint committee bill, each party leader would be granted 15 hours, and the party leader would then decide who could speak, for how long, and in what order.[76] Similar terms apply, under the Congressional Budget Act of 1974, during consideration of a budget resolution or a reconciliation bill in the Senate. Frequently, time is also controlled in the Senate by unanimous consent agreements. Under the regular rules of the Senate, however, time is not controlled, there is no limit placed on how long a Senator can speak, and Senators speak in the order they seek recognition from the presiding officer.

In an apparent effort to streamline Senate procedures, the BCA includes several other provisions restricting the motions that can normally be made or the length they could otherwise be debated. Under the BCA, in addition to the prohibition on amendments, it is not in order to offer a motion to postpone or a motion to recommit the bill. Appeals from decisions of the chair relating to Senate rules are not debatable under the act. Any other motions that might be offered or appeals that might be made are debatable for just one hour each (included under the total cap of 30 hours) equally divided between those favoring and opposing the motion.

When the time for consideration of the joint committee bill has expired, then under the BCA the Senate is to vote on passage of the bill. Just as under regular Senate rules, passing the bill would require support from a simple majority of Senators voting, or 51 if all Senators vote and there are no vacancies. At the request of any Senator, there could be a live quorum call prior to the final passage vote. The purpose of allowing a quorum call presumably is to provide an opportunity to bring Senators to the floor for the vote, if necessary. The vote on passage is to occur no later than December 23, 2011; after that time, the special procedures for consideration of the bill will not longer apply.[77]

(...continued)

Congress, Senate Committee on the Budget, *Senate Procedures for Consideration of the Budget Resolution/Reconciliation*, 110th Cong., 1st sess., February 12, 2009, S.Hrg. 111-106 (Washington: GPO, 2009), pp. 42-62.) (Memorandum is also available at Senate Budget Committee website, http://budget.senate.gov/democratic/.)

[76] The Budget Control Act does not specify how time used for quorum calls or voting would be charged. Because the BCA states that the 30 hours "shall be equally divided between the majority and

minority leaders or their designees" (Section 401(c)(3)), one possible interpretation is that the time used for votes and the time for quorum calls will be charged equally to each side. Under the precedents of the Senate, if the absence of a quorum is suggested when the Senate is operating under time controlled pursuant to a unanimous consent agreement, the time consumed by the quorum call is charged against the side noting the absence of a quorum (Floyd M. Riddick and Alan S. Frumin, *Riddick's Senate Procedure: Precedents and Practices*, 101st Cong., 2nd sess., S. Doc. 101-28 (Washington: GPO, 1992), [Hereafter *Riddick's Senate Procedure*], p. 1066). This is also how time for quorum calls is charged when legislation is being considered under the Budget Act of 1974 (e.g., a budget resolution or a reconciliation bill). In both cases, unanimous consent is often obtained to charge the time equally to both sides. Under the Budget Act of 1974, time spent voting is not charged against the debate time provided.

[77] Section 402(c)(5)and Section 402(g)(2) of the BCA.

House Floor Action

Under the Terms of the Budget Control Act

The BCA creates special procedures that ensure that the House could bring the Joint committee bill to the floor even if the committees of jurisdiction and party leadership do not seek its consideration. If a committee does not report by December 9, 2011, a Member could make a privileged motion to discharge the committee from consideration. The motion is debatable for 20 minutes, and if it is agreed to the measure would be immediately pending before the House. Furthermore, if the committee or committees do report,[78] any Member could make a non-debatable motion that the House proceed to consider the joint committee bill.

Once the House has agreed to bring the bill to the floor, the BCA procedures provide that the House is to consider the legislation for two hours without an opportunity for amendment and then vote on final passage. All points of order against the bill and against its consideration are considered waived. Under ordinary House procedures the minority party is generally guaranteed a chance to offer a motion to recommit the bill before final passage,[79] but no such opportunity is available under the statutory procedures. One motion is in order to limit debate time further.

The BCA provides a procedure for any numerical majority to take up and pass a bill without delay, but it also precludes individual members or minority factions from slowing down the business of the House by offering repetitive motions. For example, once one motion to discharge a committee is disposed of (perhaps by a motion to table—or kill—the discharge proposal) another such motion is not in order. Similarly, if the House disposes of a motion to proceed to the joint committee bill, perhaps because a numerical majority decline to take it up, further motions to proceed to the joint committee bill are not in order. No motions to reconsider votes are permitted.

The House, like the Senate, is required under the BCA to pass the bill by December 23, 2011. If the bill is not passed by both chambers at the end of that day, then it cannot be considered under the expedited procedures of the BCA.[80]

Option to Consider the Bill under the Terms of a Special Rule

The House has the option, however, of considering the joint committee bill under a special rule reported by the Rules Committee in the same way that other major legislation is brought before the House for consideration.[81] When the House considers measures eligible for expedited procedures under other statutes, such as the Congressional Budget Act of 1974 and the Trade Act of 1974, it typically does so not under the statutory expedited procedures but under a special rule.

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[78] If the committees are discharged not through the BCA privileged motion but through the regular discharge process, the same proceedings apply as if the measure was reported. For more information on the House discharge rule, see CRS Report 98-394, *Discharge Procedure in the House*, by Richard S. Beth.

[79] For more information, see CRS Report 98-383, *Motions to Recommit in the House*, by Betsy Palmer.

[80] Section 402(b)(4) and Section 402(g)(2) of the BCA.

[81] Section 404(2) of the Budget Control Act specifically states that the procedures are established "with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House." A special rule is one of the common ways in which the House implements this constitutional power.

The House might choose this form of consideration in order to customize the terms of consideration (debate time could differ, for example, from the two hours provided under the BCA). It also might choose to bring the measure up by special rule in order to avoid procedural steps created by the BCA that are uncommon in current House practice. In fact, one reason to use a special rule might be because it is a manner of proceeding with which all Members of the House are familiar.

Even if the House does bring up the joint committee bill by rule, it is unlikely that amendments to the bill will be made in order unless there is reason to expect the Senate could expeditiously consider the measure under its regular rules. If the House were to amend the bill, the bill would be ineligible for expedited consideration in the Senate. The House-amended text would be different from that recommended by the Joint committee, and thus it would no longer meet the definition of a joint committee bill under the BCA. [82] If prior practice under statutory expedited procedures is a guide, it is also unlikely that a motion to recommit would be made in order if the bill were brought up by special rule.[83] Since the motion to recommit with instructions is effectively an opportunity to amend a bill, a successful motion to recommit with instructions would make the bill ineligible for expedited consideration in the Senate.

Passage Vote and Subsequent Action

Because the joint committee bills introduced in each chamber are both required to consist of the legislative text proposed by the joint committee, and because no amendments are in order in either chamber, if each chamber passes its bill, both measures will be identical. No conference committee or other means of resolving policy differences between the chambers will be necessary. Under the Constitution, however, it is necessary for both chambers to pass the same measure. In other words, even if each chamber passes its own numbered bill (for example, the House passes H.R. 2345 and the Senate passes S. 6789), and the texts of those two bills are identical, either the House must pass the Senate bill or the Senate must pass the House bill. Under the Budget Control Act, Congress will meet this requirement by providing that the joint committee bill that passes a chamber first will be the bill that is sent to the President.

More specifically, it provides that if the Senate receives the House joint committee bill before it has passed its own joint committee bill, the Senate will consider its own bill up until the point of final passage. When it is time to vote on final passage, the vote will occur on the identical House bill. If the Senate passes its bill before it receives the House companion measure, then it will send its bill to the House, and the House will vote on the Senate bill. If the joint committee bill has any

[82] The Rules Committee could report a special rule permitting amendments to the Joint Committee bill. Presumably, however, the amended legislation would not be eligible for expedited consideration in the Senate, as it would fail to meet the definition of "Joint Committee Bill" in Section 401(a)(2), "a bill consisting of the proposed legislative language of the joint committee" recommended and introduced pursuant to the BCA.

[83] House Rule XIII, clause 6(c) prohibits the Rules Committee from reporting most resolutions that would prevent a motion to recommit a bill or joint resolution offered by the minority leader or his designee. In the case of a Joint Committee bill, however, a reference to the statutory prohibition in the special rule could prevent the motion to recommit without violating House Rule XIII, clause 6(c) . For example, special rules for trade agreement implementation bills in recent Congresses have prohibited the motion to recommit by stating that "Pursuant to" the relevant section of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion. See H.Res. 801, 110th Congress; H.Res. 386, H.Res. 583, and H.Res. 925, 109th Congress; and H.Res. 329, H.Res. 712, and H.Res. 738,108th Congress.

provisions affecting revenue, however, then the Senate will vote on the identical House bill when received, regardless of which chamber has passed its bill first.

If the President vetoes the joint committee bill, each chamber could override the President's veto with a two-thirds vote.[84] The BCA limits debate on any veto message received in the Senate to one hour, equally divided between the majority and

minority leaders or their designees. Under regular Senate rules, the question of overriding the veto, and some other available motions that could displace consideration of the veto message, are subject to extended debate. The statutory debate limitation could allow the Senate to more quickly get to a vote on the question of overriding the veto than might be possible under the regular rules. In the House, the veto message would be considered under its regular procedures normally permitting one hour of debate. The deadline for enactment—passage by both chambers and signature by the President—to prevent an automatic spending reduction process is January 15, 2012.

Budget Goal Enforcement: Spending Reduction Trigger

Section 302 of the Budget Control Act of 2011 establishes an automatic process to reduce spending, beginning in 2013, unless a joint committee bill reducing the deficit by at least $1.2 trillion over the period covering FY2012-FY2021 is enacted by January 15, 2012.[85] The process presumably is intended to encourage agreement on such deficit reduction, either by enacting the joint committee proposal by the deadline at the end of 2011, or possibly by enacting other legislation (through existing congressional procedures) by the beginning of 2013, when the automatic process would begin to make reductions. In effect, if Congress and the President do not act to reduce the deficit by $1.2 billion through the enactment of legislation, then spending reductions are automatically made, unless Congress and the President agree by statute to repeal or modify the automatic process.

The spending reduction process is triggered automatically if legislation introduced by the joint committee is not enacted, or if it is enacted, but it does not reduce the deficit by at least $1.2 trillion over the period covering FY2012-FY2021. Therefore, if a joint committee bill is enacted, but it reduces the deficit by only $900 billion, for example, the automatic process would still be triggered to make up the remainder.

If triggered, the automatic spending reduction process entails four key steps:

- the statutory discretionary spending limits for FY2013-FY2021 are revised, by redefining the security and nonsecurity categories and by extending such categories through FY2021;
- the amount of spending reduction required for each year is calculated and divided equally between two categories—defense and nondefense;

[84] See CRS Report RS22654, *Veto Override Procedure in the House and Senate*, by Elizabeth Rybicki.

[85] Section 302 of the BCA amends the Balanced Budget and Emergency Deficit Control Act (BBEDCA) by adding a new Section 251A.

- the annual amount of spending reductions required each year in each of these categories is further divided proportionally between discretionary appropriations and direct spending programs (excluding certain programs and activities) within each category; and
- the spending reductions required in each year (FY2013-FY2021) are achieved through a combination of sequestration and the downward adjustment of the revised discretionary spending limits.

Each of these steps is described in detail below, to explain how the spending reductions would be achieved in the event the automatic process is triggered.

Revising Statutory Limits on Discretionary Spending

First, the statutory discretionary spending limits for FY2013-FY2021, established under Section 101 of the BCA, are revised: (1) to redefine the security and nonsecurity categories; and (2) to set annual limits for each of these categories through FY2021.[86] The revised categories basically divide the original discretionary spending limits between defense and nondefense accounts; at this point, the total amount of discretionary spending allowed under the limits is not yet reduced (see **Table 2**). In contrast to the original discretionary limits under Section 251 of the BBEDCA, as amended by the BCA, the security category is revised to include discretionary appropriations classified as budget function 050 (national defense) only.[87] The nonsecurity category is revised to include all other discretionary appropriations; the other discretionary appropriations not in budget function 050 ("National Defense") included in the original security category are essentially transferred to the revised nonsecurity category. By setting annual limits for the revised categories through FY2021, the revised limits extend the "firewall" between different spending categories beyond the original two-year firewalls (for FY2012 and FY2013). Both changes to the discretionary spending limits presumably facilitate the equal split of the required spending reduction between defense and nondefense accounts over the nine years through FY2021, as required in the next steps.

[86] For the purposes of the following explanation and this report, it is assumed that the new spending limits will be applied using the definitions of "revised security category" and "revised nonsecurity category" in section 251A(1). The plain text of the statute, however, omits the term "revised" from the provisions of section 251A(2), using instead the terms "security category" and "nonsecurity category." As a result, it may be possible to question whether the discretionary spending limits required by section 251A will, if necessary, actually be applied in a manner consistent with the provision's apparent goals.

[87] For a brief description of the budget functional categories, see CRS Report 98-280, *Functional Categories of the Federal Budget*, by Bill Heniff Jr. For further information, see Government Accountability Office, *Budget Function Classifications: Origins, Trends, and Implications for Current Uses*, GAO/AIMD-98-67, February 1998.

Table 2. Revised Statutory Limits on Discretionary Spending if Automatic Spending Reduction Process is Triggered

(in billions of budget authority)

Fiscal Year	Original Limits	Revised Limits	
		Revised Security Category	Revised Nonsecurity Category
2013	$1,047[a]	$546	$501
2014	$1,066	$556	$510
2015	$1,086	$566	$520
2016	$1,107	$577	$530
2017	$1,131	$590	$541
2018	$1,156	$603	$553
2019	$1,182	$616	$566
2020	$1,208	$630	$578
2021	$1,234	$644	$590

Source: Sections 251(c) (relating to original limits) and 251A(2) (relating to revised limits) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25).

Notes: The revised security category includes discretionary appropriations classified as budget function 050 ("National Defense") only; the revised nonsecurity category includes all other discretionary appropriations. Under the automatic spending reduction process, revised limits for FY2014-FY2021 are subsequently adjusted downward each year by an amount based on the calculation specified in the BCA. The revised limits for FY2013 are not adjusted downward; instead, discretionary appropriations for FY2013 are sequestered (i.e., cut) by the calculated amounts. After the sequestration, it appears that subsequent discretionary appropriations for FY2013 presumably could be provided, as long as the total within a category for the year did not exceed a revised limit.

a. For FY2013, the original spending limits are divided into the two separate categories of security ($686 billion) and nonsecurity ($361 billion); for definitions of original security and nonsecurity categories, see "Statutory Limits on Discretionary Spending" section, above.

Calculating the Spending Reductions

Second, OMB is required to calculate the amount of deficit reduction required to be achieved in the defense and nondefense budget functions each year through this automatic process. The calculation involves five steps: (1) begin with $1.2 trillion (the budget goal); (2) subtract the amount of deficit reduction in the joint committee bill, if enacted;[88] (3) subtract 18% of the

[88] As noted, OMB is tasked with this calculation, and therefore, it appears that OMB would have sole responsibility in determining the amount of deficit reduction achieved in the Joint Committee bill, if enacted. However, Section 401(b)(3)(B)(i)(II) of the BCA requires that the bill itself include a statement of deficit reduction. While the BCA does not explicitly require OMB to use this statement in determining the amount of deficit reduction achieved by the bill, OMB could use it by choice, or the statement in the bill could be written explicitly to require OMB to use it. If the statement does not include such a specific requirement and OMB itself determines the amount of deficit reduction achieved in the bill, presumably it would make such determination in relation to the baseline as calculated under Section 257 of the BBEDCA, which prescribes generally a current-law baseline. For a brief description of baselines in the budget process, see CRS Report 98-560, *Baselines and Scorekeeping in the Federal Budget Process*, by Bill Heniff Jr.

difference, attributable to debt service; (4) divide by nine, to allocate the spending reductions equally across the nine FY2013-FY2021; and (5) divide by two, to allocate the spending reductions between defense and nondefense functions. Again, this calculation provides the amount of spending reductions required from each of the two categories of defense and nondefense for each fiscal year covering FY2013-FY2021.

Table 3 provides two hypothetical illustrations of the calculations to be required, if the automatic process is triggered. In the first illustration, for example, $900 billion of deficit reduction is achieved through the enactment of a joint committee bill. In this case, the automatic process would require $13.7 billion each in spending reductions within the defense function and within the total of all other budget functions (nondefense functions) each year.

Table 3. Hypothetical Calculations of Reductions Required in Defense and Nondefense Spending if Automatic Spending Reduction Process is Triggered

Description of Calculation	Hypothetical Illustration #1: Enactment of Joint Committee Bill Reducing Deficit by $900 Billion	Hypothetical Illustration #2: Joint Committee Bill Is Not Enacted (i.e., No Deficit Reduction)
Budget goal	$1,200 billion	$1,200 billion
Subtract amount of deficit reduction in joint committee bill, if enacted	$1,200 billion-$900 billion = $300 billion	$1,200 billion-$0 billion = $1,200 billion
Multiply difference by 18%, to determine amount attributable to debt service	$300 billion * 0.18 = $54 billion	$1,200 billion * 0.18 = $216 billion
Subtract the 18%, to account for debt service savings	$300 billion - $54 billion = $246 billion	$1,200 billion-$216 billion = $984 billion
Divide by 9, to determine spending cuts for each year, FY2013-FY2021	$246 billion / 9 = $27.3 billion	$984 billion / 9 = $109.3 billion
Divide by 2, to allocate between defense and nondefense spending	$27.3 billion / 2 = $13.7 billion	$109.3 billion / 2 = $54.7 billion

Source: Formula provided in Section 251A(3) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011 (P.L. 112-25). Amounts of deficit reduction resulting from joint Committee bill are hypothetical.

The third step is that the annual amount of spending reductions required in each of these categories is further divided proportionally between discretionary and nonexempt direct spending within each category.[89] These calculations, as set forth in the Budget Control Act, yield four

[89] In order to determine the proportions, the calculation specified in the BCA uses the revised spending limits for discretionary spending and the OMB's baseline level of nonexempt accounts for direct spending. That is, the discretionary spending amount apparently includes programs and accounts exempt from any sequestration, while the direct spending amount does not. In addition, it is unclear whether the revised spending limit used in the calculation would include the adjustments provided for in Section 251(b) of the BBEDCA, as amended by the BCA (e.g., for discretionary appropriation for Overseas Contingency Operations/Global War on Terrorism). While the formula in the act does not explicitly specify whether or not the adjustments are included, the calculations are made on a date after which the adjustments would have been made to the limits (January 2, 2013, for FY2013, and when the sequestration preview reports are issued, for FY2014-FY2021).

amounts of required spending reductions, respectively in (1) defense discretionary appropriations, (2) defense direct spending, (3) nondefense discretionary appropriations, and (4) nondefense direct spending.[90]

Implementing the Required Spending Reductions

Finally, the required spending reductions are achieved each year (FY2013-FY2021) through a combination of a sequestration process[91] and the downward adjustment of the *revised discretionary spending limits*. Specifically, the reductions required are implemented in three parts: (1) for discretionary spending for FY2013, a sequestration of budgetary resources in that year; (2) for discretionary spending for FY2014-FY2021, a downward adjustment of the *revised discretionary spending limits*; and (3) for direct spending, a sequestration of budgetary resources in each year from FY2013 through FY2021.

In general, the sequestration process involves the cancellation of budgetary resources (i.e., spending cuts) in nonexempt programs and accounts.[92] Certain programs and activities are exempt from any sequestration.[93] Such programs include Social Security, Medicaid, and federal retirement and disability programs, among many others, as provided by Section 255 of the BBEDCA (as restored by Section 104 of the BCA).[94] In addition, the sequestration process is governed by general and special rules, as provided in the BCA, Section 6 of the Statutory Pay-As-

[90] The amounts are calculated at the beginning of each year. Therefore, the amounts for each of the four categories may not be the same for each year because the proportions between discretionary and direct spending within each category, especially the nondefense category, may change. For example, if discretionary appropriations decline as a proportion of nondefense spending, then the amount of reductions required in discretionary appropriations will decline.

[91] The sequestration process was first established in 1985 by the Balanced Budget and Emergency Deficit Control Act (Title II of P.L. 99-177), commonly known as the Gramm-Rudman-Hollings Act. Initially, the sequestration process was tied to annual maximum deficit targets, declining to zero by a date certain, established by the law. If the budget deficit exceeded those target levels (plus a margin-of-error amount in some years), automatic across-the-board spending cuts would be triggered. The process was intended to provide an incentive to Congress and the President to reduce the deficit through legislative action to avoid an automatic sequestration. Since then, the law has been amended and modified several times. Notably, the Budget Enforcement Act (BEA) of 1990 (title XIII of P.L. 101-508) changed the focus of the sequestration process. Instead of maximum deficit targets, the BEA of 1990 tied sequestration to new statutory spending limits and PAYGO rules. The change was intended to hold Congress and the President accountable for projected budget outcomes that would result from new legislation, rather than the level of the deficit which could be affected by factors beyond their direct control, such as economic growth, inflation, and demographic changes. Most recently, prior to the enactment of the BCA, the Statutory Pay-As-You-Go Act of 2010 (Title I of P.L. 111-139) amended the BBEDCA to tie sequestration to a revised PAYGO rule. For further information on the legislative history of the sequestration process, see CRS Report R41901, *Statutory Budget Controls in Effect Between 1985 and 2002*, by Megan Suzanne Lynch, and CRS Report R41157, *The Statutory Pay-As-You-Go Act of 2010: Summary and Legislative History*, by Bill Heniff Jr. (The latter report was written by former CRS Specialist Robert Keith.)

[92] "Budgetary resources" include new budget authority, unobligated balances, direct spending authority, and obligation limitations, as defined in Section 250(c)(6) of the BBEDCA.

[93] Because the BCA is an amendment to the BBEDCA, and because it repeals the BBEDCA's expiration date, it would appear that the exemptions provided in Section 255 of the BBEDCA would apply to any sequestration order. The BCA explicitly indicates as much in relation to the sequestration process involving direct spending, but does not do so explicitly in relation to the sequestration process involving discretionary appropriations. This different treatment in the legislative language of the BCA may raise some questions about whether or not any discretionary appropriations were intended to be exempted from the sequestration process.

[94] In addition, the President may exempt any military personnel account or provide for a lower uniform percentage reduction in any such account, provided that he notify Congress of such actions by August 10 and, if a sequestration is required, that other accounts in budget subfunctional category 051 ("Department of Defense-Military") are reduced by a uniform percentage to offset the amount not reduced.

You-Go Act of 2010 (Title I of P.L. 111-139), and Section 256 of the BBEDCA, including a 2% limit on any reductions in spending for Medicare and for certain health care programs.

The BCA requires OMB to calculate, in the manner specified above, and the President to order a sequestration of nonexempt discretionary appropriations for FY2013, and of nonexempt direct spending for FY2013 and for each year through FY2021. The sequestration for FY2013 is to occur on January 2, 2013, and the sequestrations for subsequent years are to occur on the date the sequestration preview report is issued (i.e., with the President's budget submission).[95] Generally, under the sequestration process, each nonexempt account is reduced by a uniform percentage necessary to achieve the reductions required.[96] For example, if for FY2013 hypothetically $54.2 billion in spending reductions are required in defense discretionary appropriations, and assuming the total amount of nonexempt defense discretionary appropriations is $546 billion, then each nonexempt account within the defense function would be reduced by 9.9%. Within the nondefense category, the BCA requires that OMB increase the reductions required in discretionary appropriations and nonexempt non-Medicare spending by a uniform percentage to in effect offset the reductions not achieved in Medicare spending as a result of the 2% limit.

Finally, on the date the sequestration preview report is issued (i.e., with the President's budget submission), for each year covering FY2014-FY2021, OMB is required to adjust downward the *revised statutory limits on discretionary spending* for each category by the amount of spending reduction required within each category for that year, calculated in the manner described above. As a result, the spending reductions in discretionary appropriations for FY2014-FY2021 are achieved by further limiting the maximum amount that may be appropriated in each category for each year. In contrast to the spending reductions achieved through sequestration for FY2013, the lower limits for subsequent fiscal years will provide Congress and the President the opportunity to determine the manner in which the reductions are made to each account through the annual appropriations process each year. It is important to note, however, that these newly revised spending limits for each category would be enforced through a sequestration process, as explained in the "Statutory Limits on Discretionary Spending" section, above.

Vote on Balanced Budget Amendment to the Constitution

Requirement for Vote

Section 201 of the Budget Control Act states that the chambers "shall vote on passage of" a balanced budget amendment to the Constitution between September 30 and December 31, 2011.[97]

[95] On such dates, OMB is also required to provide a report to Congress containing information on the calculations, the adjusted discretionary spending limits, the reductions in nonexempt direct spending accounts, and any other appropriate information.

[96] In addition, under Section 256(k)(2) of the BBEDCA, the uniform percentage reduction is applied to all programs, projects, and activities within a budget account, as delineated, for accounts included in appropriations acts, in those acts or accompanying reports, and, for accounts not included in appropriations acts, in the most recently submitted President's budget.

[97] For information on the issue of amending the Constitution to require that the budget of the federal government be balanced, see CRS Report R41907, *A Balanced Budget Constitutional Amendment: Background and Congressional* (continued...)

No requirements are placed on the specific content of the proposal to amend the Constitution. The BCA does not specify that the Senate must vote on a House-passed constitutional amendment, nor does it require that both chambers vote on the same constitutional amendment.

The BCA does not impose any procedural consequence if a chamber fails to vote on a balanced budget amendment. Factors besides procedure, however, might be expected to influence the decision to hold a vote. Furthermore, without successful final passage votes on the same measure in both chambers, the BCA precludes one avenue by which the debt limit may be increased by $1.5 trillion (instead of by $1.2 trillion). Specifically, if both chambers *approve* a Constitutional amendment by the required two-thirds vote, then the debt limit could be increased by $1.5 trillion; if one or both chambers do not approve a Constitutional amendment, then it can be increased only by $1.2 trillion. (Enactment of the joint committee bill is another avenue through which the debt limit could be increased by up to $1.5 trillion. See the section "Debt Ceiling Increase" above.)

The BCA does not establish any expedited procedures for initial consideration of a Constitutional amendment. If the House were to consider a House-originated Constitutional amendment, it would do so under its regular rules of procedure, possibly under the terms of a special rule or by a motion to suspend the rules. If the special rule permitted amendments they could be adopted by majority vote, but final adoption would require support from two-thirds of Members present and voting. If the Senate were to consider a Senate-originated Constitutional amendment, it also would do so under its regular rules. That would mean it would be brought to the floor by unanimous consent or a motion to proceed. The motion to proceed would be debatable, so bringing it to a vote might require a vote of three-fifths of the Senate to limit debate. The Constitutional amendment itself would also be debatable, which could again require cloture, and amendments could be offered and adopted by a majority of Senators present and voting, but the joint resolution could be agreed to only by two thirds of Senators present and voting.

Expedited Procedure for Consideration of Constitutional Amendment Approved by Other Chamber

Section 202 of the BCA establishes legislative procedures to expedite the consideration by one chamber of a joint resolution approved by the other. To be clear, these procedures will only be used if one chamber approves a Constitutional amendment with the required two-thirds vote. If that happens, then one chamber could use these procedures to consider a measure sent to it by the other.

The BCA provides that if the Senate receives a House-passed joint resolution, it will be referred to the committee of jurisdiction, which is required to report by the fifth session day after the Senate received the joint resolution from the House. If the committee does not report, it will be automatically discharged and the joint resolution will be placed on the calendar, making it eligible to be called up in the full Senate.

The Senate, however, must agree to take up the joint resolution under its regular rules, because the BCA does not affect the procedures for bringing the measure to the floor. The Senate could

(...continued)

Options , by James V. Saturno and Megan Suzanne Lynch.

take up a House joint resolution by unanimous consent or by agreeing to a motion to proceed. While a simple majority could agree to a motion to proceed, the motion is debatable, and therefore the Senate might have to invoke cloture in order to get to a vote on the question of taking up the balanced budget amendment. Cloture requires the support of three-fifths of the Senate (normally 60 Senators) and several days to invoke.[98] As a result, Senators might not have the opportunity, however, of voting directly on the question of approving a House-passed balanced budget amendment. On the other hand, given that passage of the constitutional amendment has a higher threshold (two-thirds of those present and voting, normally 67 Senators) than cloture, any balanced budget amendment likely to be approved by the Senate could also likely clear this procedural hurdle.

If the Senate chooses to take up a House joint resolution proposing a balanced budget amendment then the BCA establishes special expedited procedures for the consideration of that joint resolution. The measure is to be considered for a total of 20 hours, including time spent in quorum calls and voting. The time would be equally divided between the majority and minority leaders or their designees. No Senator could offer an amendment to the joint resolution, and several other motions that would take the Senate off of consideration of the joint resolution are also precluded. If the Senate has voted to proceed to a House joint resolution, then the final passage vote is to occur immediately after the 20 hours is used or yielded back (except for one quorum call if requested) or no later than the seventh session day after the joint resolution was placed on the calendar.

The BCA also provides a special procedure the House could use to consider a Senate joint resolution proposing a balanced budget amendment, although the House might choose instead to consider the measure under the terms of a special rule or under suspension of the rules. To briefly summarize the special procedures, the BCA provides a method for a majority to take up a Senate-passed joint resolution on the floor and debate it for two hours, equally divided between those opposed and those in favor.[99] No amendments and no motion to recommit would be in order under the procedures for House consideration outlined in the BCA.

Federal Student Aid Programs

The Budget Control Act of 2011 (BCA; P.L. 112-25) also makes changes to two of the federal student aid programs authorized under Title IV of the Higher Education Act of 1965, as amended (HEA; P.L. 89-329):

- The William D. Ford Federal Direct Loan (DL) program and
- The Federal Pell Grant program.

[98] For more information on the cloture process, see CRS Report RL30360, *Filibusters and Cloture in the Senate*, by Richard S. Beth, Valerie Heitshusen, and Betsy Palmer.

[99] The Senate joint resolution is to be referred to the Committee on the Judiciary, and if the committee has not reported within five legislative days, a motion to discharge the committee is in order and debatable for 20 minutes, equally divided between a proponent and an opponent. If the motion to discharge is agreed to, the House would proceed immediately to consideration of the Joint Committee bill.

Federal Direct Loan Program (Student Loans)

The William D. Ford Federal Direct Loan (DL) program is the primary federal student loan program administered by the U.S. Department of Education (ED).[100] The program makes available loans to undergraduate and graduate students and the parents of dependent undergraduate students to help them finance their postsecondary education costs. Several types of loans are offered through the DL program: Subsidized Stafford Loans and Unsubsidized Stafford Loans for undergraduate, graduate, and professional students; PLUS Loans for graduate students and the parents of dependent undergraduate students; and Consolidation Loans through which borrowers may combine their loans into a single loan. The primary difference between Subsidized and Unsubsidized Stafford Loans is that with Unsubsidized Stafford Loans borrowers are responsible for paying the interest that accrues while they are in school, and during grace and deferment periods, whereas with Subsidized Stafford Loans the interest that accrues during these periods is paid by the government. DL program subsidy costs are mostly funded with mandatory appropriations, and administrative costs are mostly funded with discretionary appropriations.

The BCA eliminates the availability of Subsidized Stafford Loans to graduate and professional students for periods of instruction beginning on or after July 1, 2012, which corresponds to the beginning of award year 2012-13. After that date, graduate and professional students will be able to substitute amounts they previously would have been able to borrow using Subsidized Stafford Loans with Unsubsidized Stafford Loans. According to ED, during award year 2010-11, 1.47 million graduate and professional students borrowed $10.8 billion in Subsidized Stafford Loans; 1.34 million graduate and professional students borrowed $15.1 billion in Unsubsidized Stafford Loans; and 0.34 million graduate and professional students borrowed $6.4 billion in PLUS Loans.

Also, effective for DL program loans first disbursed on or after July 1, 2012, the BCA eliminates the authority of the Secretary of Education to offer one of two repayment incentives to borrowers of DL program loans. At present, two types of repayment incentives are offered:

- Borrowers of Stafford Loans currently receive a 0.5% up-front interest rebate that partially offsets a 1% origination fee; and borrowers of PLUS Loans receive an up-front interest rebate of 1.5% that partially offsets a 4% origination fee. If a borrower who receives an up-front interest rebate fails to make the first 12 monthly loan payments on time, the rebated amount is added back to the borrower's loan principal, increasing the loan amount that must be repaid. The BCA eliminates authority for the Secretary to offer this benefit.
- Borrowers who repay DL program loans using automatic electronic debit currently receive a 0.25 percentage point reduction in their interest rate. The BCA retains authority for the Secretary to offer this benefit.

CBO estimates the changes in the DL program would reduce direct spending by $9.6 billion over the FY2012-FY2016 period and by $21.6 billion over the FY2012-FY2021 period. Approximately $17 billion of these savings would be directed to the Pell Grant program for future use, while $4.6 billion would go towards deficit reduction.[101]

[100] For a description of the DL program, see CRS Report R40122, *Federal Student Loans Made Under the Federal Family Education Loan Program and the William D. Ford Federal Direct Loan Program: Terms and Conditions for Borrowers*, by David P. Smole.

[101] CBO Analysis of the FY2011 Budget Control Act, *Letter to Hon. John Boehner and Hon. Harry Reid*, dated August (continued...)

Federal Pell Grant Program

The Federal Pell Grant program is the single largest source of federal grant aid supporting postsecondary education students.[102] The program provided over $34.7 billion to approximately 9.5 million undergraduate students in FY2010.[103]

The Pell Grant program is currently funded with three types of spending:

- Annual discretionary appropriations bills that provide most of the funding for the program and typically specify the base discretionary maximum grant level for the program in a given award year;
- Mandatory appropriations provided in "such sums as necessary" for the purposes of funding annual increases to the base discretionary maximum grant level each year, as specified in the HEA, under existing statutory parameters; and
- Additional specific amounts in mandatory appropriations provided in previous legislation[104] that are available for general use for a specific time period and may be used to pay for obligations associated with provisions that primarily affect discretionary spending in the program.

The BCA provides additional mandatory funding for the Pell Grant program for general use in FY2012 and FY2013, as depicted in the last category above. The BCA provides an additional $10 billion in mandatory funding for FY2012, and an additional $7 billion in mandatory funding for FY2013, for a total of an additional $17 billion.[105]

These additional appropriations would reduce the amount of discretionary appropriations required in FY2012 and FY2013. Despite the availability of the additional funds provided in the BCA, Congress would need to provide an additional $1.3 billion over the FY2011 discretionary funding amount to maintain the current award levels and eligibility parameters in FY2012.[106] Congress could also consider revising the program's award rules, eligibility parameters, and aid levels in order to reduce costs in the program, and therefore, reduce the amount of additional appropriations needed in FY2012. Other than providing additional mandatory funding, the BCA does not make any other changes to the Pell Grant program.

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1, 2011. See http://www.cbo.gov/ftpdocs/123xx/doc12357/BudgetControlActAug1.pdf.

[102] For a description of the Federal Pell Grant program, see CRS Report R41437, *Federal Pell Grant Program of the Higher Education Act: Background, Recent Changes, and Current Legislative Issues*, by Shannon M. Mahan.

[103] Taken from data available online from the U.S. Department of Education at http://federalstudentaid.ed.gov/datacenter/programmatic.html.

[104] For example, $13.5 billion in additional mandatory appropriations were provided for general use in the program for FY2011 in the SAFRA Act, passed as part of the Health Care and Education Reconciliation Act of 2010 (HCERA; P.L. 111-152).

[105] Per the HEA, these funds are available on October 1 of each applicable fiscal year and remain available through the end of each succeeding fiscal year. For example, the additional $10 billion provided for FY2012 will be available for use between October 1, 2011 and September 30, 2013.

[106] Based on estimates provided by CBO in April 2011.

Appendix A. Frequently Asked Questions About the Budget Control Act

How will the spending caps affect a specific program (or department or agency)?

The effect of the limits placed on discretionary spending by the BCA on specific government programs, departments or agencies will be determined later through the regular appropriations process. The spending limits of the BCA are established for two broad categories for FY2012 and FY2013 ("security" and "nonsecurity") and for one overall discretionary category for FY2014 through FY2021. Congress and the President will decide how to allocate spending within these constraints.

The BCA authorized an immediate increase of the federal debt ceiling. Are subsequent increases contingent upon Congress taking any other action?

No. The BCA authorized an increase of the debt ceiling up to at least $2.1 trillion. If Congress does not take any other action, the increase up to $2.1 trillion will occur. Raising the debt ceiling to a higher level, up to a maximum of $2.4 trillion, is contingent on other action, namely the enactment of a joint committee bill that reduces the deficit by more than $1.2 trillion or the passage in both chambers of a balanced budget constitutional amendment. Furthermore, Congress can prevent subsequent stages of debt limit increases authorized by the BCA by enacting a "joint resolution of disapproval," a process expected to require support of two-thirds of each chamber to override a likely veto by the President.

Are there any content requirements for the Joint Committee bill to be considered under the expedited procedures?

To qualify as a joint committee bill under the definition in the BCA, the legislative language recommended by the Committee must include a statement of the deficit reduction achieved over the period of FY2012 to FY2021. Otherwise, the only other requirements the text must meet to be considered under the special procedures are (1) be recommended by a majority of joint committee members through a vote conducted on or before November 23, 2011; (2) be introduced by the House Speaker (or designee) the first legislative day after it is transmitted from the joint committee *or* be introduced by the Senate majority leader (or designee) the first day of session after it is transmitted from the joint committee; and (3) be passed by both chambers by December 23, 2011.

Can the Joint Committee bill contain provisions affecting revenue?

Yes. The BCA does not contain any specific restrictions on the policy content of the joint committee bill. In order to comply with the Constitutional requirement that all bills affecting revenue originate in the House of Representatives, Section 402(e)(2) of the BCA ensures that the

bill sent to the President for his signature will be the "H.R." version of the joint committee Bill, not the "S." version.

What happens if the Joint Committee bill does not become law?

If a joint committee bill reducing the deficit by at least $1.2 trillion over the period covering FY2012-FY2021 is not enacted by January 15, 2012, an automatic process to reduce spending will begin January 2, 2013. The spending reductions are achieved for direct spending through sequestration each year (FY2013 to FY2021). For discretionary spending, the reductions are achieved through sequestration the first year (FY2013). For the other fiscal years (FY2014-FY2021), the discretionary spending reductions are achieved through a downward adjustment of statutory limits on discretionary spending divided into two new categories that reflect defense and nondefense spending. Importantly, some programs, including both Social Security and Medicaid, are exempt from sequestration, and any sequestration of Medicare spending is capped at 2%.

If the automatic spending reduction process occurs because a Joint Committee bill does not become law, how much will spending be cut?

The amounts of spending reductions required each year cannot yet be known. It depends in part on the extent, if any, by which the reductions in the joint committee bill fall short of the $1.2 trillion goal and in part on spending estimates to be calculated in the future by the Office of Management and Budget (OMB). Furthermore, beginning in FY2014, part of the spending reductions will be achieved through a downward adjustment of the statutory limits on discretionary spending, not by automatic across-the-board spending cuts. For discretionary spending, it will therefore be Congress and the President who later determine the manner in which reductions are made to each account through the annual appropriations process each year.

What programs and activities are exempt from the sequestration process that will occur if a Joint Committee bill does not become law?

The list of exempt programs and activities can be found in Section 255 of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 905). The exempt programs include Social Security, Medicaid, and federal retirement and disability programs, among many others.

What happens if a balanced budget constitutional amendment is not sent to the states?

The BCA does not establish a procedural consequence if the House and Senate do not both pass a balanced budget constitutional amendment by the required two-thirds in each chamber. If the chambers do approve such a constitutional amendment, however, the BCA provides that the debt ceiling could be increased by $1.5 trillion, instead of by $1.2 trillion.

Do both chambers have to vote on a balanced budget amendment?

Section 201 of the Budget Control Act states that the chambers "shall vote on passage of" a balanced budget amendment to the Constitution between September 30 and December 31, 2011. In the Senate, to get to a direct passage vote on a constitutional amendment, it might be necessary to secure support from 60 Senators to begin consideration of such a proposal. The BCA does not impose any procedural consequence if a chamber fails to vote on a balanced budget amendment. Factors besides procedure, however, might be expected to influence the decision to hold a vote. Without successful final passage votes on the same measure in both chambers, the BCA does preclude one avenue by which the debt limit may be increased by $1.5 trillion (instead of by $1.2 trillion).

My question is not on this list. Do I have to read this whole report to get answers?

No. You can ask your specific questions to the authors of this report or one of several other CRS analysts whose contact information is provided below:

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Appendix B. Timelines for Actions in Expedited Procedures

Table B-1. Joint Committee on Deficit Reduction: Timeline for Actions

Date	Action and Provision of Law	Related Provisions
Not later than August 16, 2011	Appoint members and co-chairs of the joint committee (Section 401(b)(4)(D) and (Section 401(b)(4)C)(i))	
Not later than September 16, 2011	Hold first meeting of the joint committee (Section 401(b)(5)(E)(i))	
Not later than October 14, 2011	House and Senate standing committees submit recommendations to the joint committee (Section 401(b)(3)(ii))	
At least 48 hours prior to vote on joint committee report and proposal	CBO cost estimates must be available to joint committee members (Section 401(b)(5)(D)(ii))	
Not later than November 23, 2011	Joint committee votes on report and proposal (Section 401(b)(3)(B)(i))	If the committee does not vote by November 23, no legislation will be eligible for consideration under the expedited procedures of the BCA (Section 402 (g)(1))
"Promptly" after vote on joint committee report and proposal	Joint committee report, proposal, and record of vote to be made publicly available (Section 401(b)(3)(B)(v))	
No later than 3 days after vote on joint committee report and proposal	Submit any minority or alternative views for inclusion in the joint committee report (Section 401(b)(3)(B)(iii))	
Not later than December 2, 2011	Transmit joint committee report and proposal to the President, Vice President, House and Senate (Section 401(b)(3)(B)(iv))	
First legislative day after joint committee proposal is received	Introduce proposal in the form of a House bill (Section 402(a))	
First calendar day Senate is in session after joint committee proposal is received	Introduce proposal in the form of a Senate bill (Section 402(a))	
Not later than December 9, 2011	House committees report joint committee bill (Section 402(b)(1))	Motion to discharge a committee from consideration of bill is in order if it has not reported by December 9 (Section 402(b)(1))
Not later than December 9, 2011	Senate committees report joint committee bill (Section 402(c)(1))	If any committee fails to report by December 9, it will be automatically discharged (Section 402(c)(1))

Date	Action and Provision of Law	Related Provisions
Not later than 2 days of session after date joint committee Bill is on Senate calendar	Senate majority leader can make motion to proceed to the joint committee bill (Section 402(c)(2))	If the joint committee bill has been on the calendar for two days of session, then any Senator can make a motion to proceed to its consideration (Section 402(c)(2))
Not later than December 23, 2011	Vote on final passage of the joint committee bill in both House and Senate (Section 402(b)(4) and Section 402(c)(5))	If vote on final passage does not occur by December 23, no legislation will be eligible for consideration under the expedited procedures of the BCA (Section 402 (g)(1))
By January 15, 2012	Joint committee bill enacted into law (Section 302(a))	If joint committee bill reducing deficit by at least $1.2 trillion is not enacted into law by January 15, sequestration will occur starting in 2013 (Section 302(a))
January 31, 2012	Joint committee is terminated (Section 401(d))	

Source: Budget Control Act of 2011, P.L. 112-25, see information in the table for specific citations to the act.

Table B-2. Dates for Introducing and Beginning Floor Consideration of Disapproval Resolutions, by Presidential Certification and Chamber

Date	Action and Provision of Law	Related Provisions
Senate disapproval resolution in response to first Presidential certification		
September 6, 7, 8, or 9 (or, if the Senate was not in session, the next calendar day on which the Senate is in session)	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(i))	
Immediately upon introduction of disapproval resolution	Disapproval resolution placed on the Senate calendar (Section 301(d)(2)	
From introduction until September 14, 2011	A non-debatable motion to proceed to the consideration of the disapproval resolution is in order (Section 301(d)(3)(A))	
House disapproval resolution in response to first Presidential certification		
September 6, 7, 8, or 9	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(i))	
Not later than 5 calendar days after introduction of disapproval resolution	Any committee of the House of Representatives to which the disapproval resolution is referred shall report it to the House without amendment (Section 301(c)(2))	If a committee fails to report the disapproval resolution within that period, the committee shall be discharged from considering it further and it will be referred to the appropriate calendar (Section 301(c)(2))
Not later than the sixth day after the introduction of the disapproval resolution	It shall be in order to move to proceed to consider the disapproval resolution (Section 301(c)(3))	

Date	Action and Provision of Law	Related Provisions
Senate disapproval resolution in response to second Presidential certification		
Between the date the certification is received and 3 calendar days after that date	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(ii))	If the Senate would otherwise not be in session in time to consider a joint resolution disapproving the second certification, the Senate majority leader (in consultation with the minority leader) is required to reconvene the Senate within two calendar days after receiving the certification from the President (Section 301(d)(1))
Immediately upon introduction of disapproval resolution	Disapproval resolution placed on the Senate calendar (Section 301(d)(2)	
From introduction until the 6th day after the date on which Congress receives a certification	A non-debatable motion to proceed to the consideration of the disapproval resolution is in order (Section 301(d)(3)(A))	
House disapproval resolution in response to second Presidential certification		
The day the certification was received or on any of the next 3 calendar days	Introduction of joint resolution of disapproval (Section 301(b)(2)(A)(ii))	If House would otherwise not be in session in time to consider a joint resolution disapproving the second certification, the House Speaker is required to reconvene the House within two calendar days after receiving the certification (Section 301(c)(1))
Not later than 5 calendar days after introduction of disapproval resolution	Any committee of the House of Representatives to which the disapproval resolution is referred is to report it to the House without amendment (Section 301(c)(2))	If a committee fails to report the disapproval resolution within that period, the committee shall be discharged from considering it further and it will be referred to the appropriate calendar (Section 301(c)(2))
Not later than the sixth day after the introduction of the disapproval resolution	It shall be in order to move to proceed to consider the disapproval resolution (Section 301(c)(3))	

Source: Budget Control Act of 2011, P.L. 112-25, see information in the table for specific citations to the act.

Notes: Under the Budget Control Act of 2011, the President submitted to Congress a certification that the debt subject to limit was within $100 billion of the debt limit on August 2, 2011, and this is identified as the "first" certification in the table. If the debt limit has been increased by $900 billion, the President may submit another certification when the debt subject to limit is within $100 billion of the debt limit, and this is identified as the "second" certification in the table.

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